



**CITY COUNCIL AGENDA  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
MARCH 7, 2017, 5:30 PM**

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: APNs: 252-193-010 and 252-193-008. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Citibank. Under Negotiation: Terms and Price.
- 2** - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: 2011 & 2021 S. Wildcat Way. Agency Negotiator: John Lollis and Maria Bemis. Negotiating Parties: City of Porterville and Tule River Aero Industries. Under Negotiation: Terms and Conditions of Lease.
- 3** - Government Code Section 54956.95 – Liability Claim: Claimant: Maria Gloria de Riveria. Agency claimed against: City of Porterville.
- 4** - Government Code Section 54956.95 – Liability Claim: Claimant: Scott Zagala. Agency claimed against: City of Porterville.
- 5** - Government Code Section 54956.95 – Liability Claim: Claimant: Erica Hernandez. Agency claimed against: City of Porterville.
- 6** - Government Code Section 54956.95 – Liability Claim: Claimant: Maria Meza. Agency claimed against: City of Porterville.
- 7** - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Kerry Kirchenberg v. City of Porterville, Tulare County Superior Court Case No. 266973.
- 8** - Government Code Section 54956.9(d) (3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Four cases in which facts are not yet known to potential plaintiff.
- 9** - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One case.

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

Pledge of Allegiance Led by Council Member Flores  
Invocation

### **PRESENTATIONS**

Employee of the Month - Alex Rodriguez  
Employee Service Awards  
Introduction of New Employees  
Chamber of Commerce's Quarterly Report

### **AB 1234 REPORTS**

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

1. Tulare County Association of Governments (TCAG) - February 27, 2017
2. Local Agency Formation Commission (LAFCO) - March 1, 2017
3. Tulare County Economic Development Corp. (TCEDC) - February 22, 2017
4. Eastern Tule Groundwater Sustainability Agency - February 23, 2017

### **REPORTS**

This is the time for all staff informational items.

### **ORAL COMMUNICATIONS**

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

### **CONSENT CALENDAR**

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

1. **City Council Minutes of December 20, 2016, and January 17, 2017**  
Re: Considering approval of the draft minutes of December 20, 2016, and January 17, 2017
2. **Authorization to Execute an Agreement to Designate Deer Creek and Tule River Authority (DCTRA) as Fiscal Agent for the Tule Subbasin Sustainable Groundwater Management Act (SGMA) Planning Grant**  
Re: Considering approval of the Agreement to Designate the Deer Creek & Tule River Authority as Fiscal Agent for the Tule Subbasin Planning Grant.

3. **A Resolution Approving the Application for State Off-Highway Vehicle Grant Funds**  
Re: Considering adoption of a Resolution approving the application for State Off-Highway Vehicle Grant Funds.
4. **Intent to Set a Public Hearing for Adjustment of Zalud House Museum Fees**  
Re: Considering the scheduling of a Public Hearing for March 21, 2017, to allow for public comments and to consider adjusting Zalud House Museum fees.
5. **Authorization to Adjust Animal Control Adoption Fees**  
Re: Considering approval of a resolution authorizing the adjustment of Animal Control Adoption Fees for special adoption events and other programs.
6. **Approval for Community Civic Event - Optimist Club - Porterville Unified School District - Burton School District - Porterville Celebrates Reading - April 8, 2017**  
Re: Considering approval of a literacy fair on April 8, 2017, at Veteran's Park, from 10:00 a.m. to 2:00 p.m.

#### **SCHEDULED MATTERS**

7. **Proposition 64 Study Session**  
Re: Review of review the Adult Use of Marijuana Act ("AUMA") and the portions of the new State law that allow additional local control, and to provide direction to staff concerning those areas of local control.
8. **Consideration of Nomination to the City Selection Committee for Appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.**  
Re: Considering the nomination of one of four applicants to the City Selection Committee for appointment to the SJVAPCD Governing Board.
9. **Status and Review of Declaration of Local Emergency**  
Re: Consideration of the continuance of the Declaration of Local Emergency.

#### **ORAL COMMUNICATIONS**

#### **OTHER MATTERS**

#### **CLOSED SESSION**

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

**ADJOURNMENT** - to the meeting of March 21, 2017.

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](http://www.ci.porterville.ca.us).



## CITY COUNCIL AGENDA – MARCH 7, 2017

SUBJECT: City Council Minutes of December 20, 2016, and January 17, 2017

SOURCE: Administrative Services

COMMENT: Staff has prepared the draft Minutes of December 20, 2016, and January 17, 2017, for the Council's review and consideration.

RECOMMENDATION: That the Council approve the draft Minutes of December 20, 2016, and January 17, 2017.

ATTACHMENTS:           1. Draft Minutes 12-20-2016  
                                  2. Draft Minutes 01-17-2017

Appropriated/Funded:

Review By:

Department Director:

Patrice Hildreth, Administrative Services Dir

Final Approver: Luisa Zavala, Deputy City Clerk

**CITY COUNCIL MINUTES  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
DECEMBER 20, 2016, 5:30 PM**

Called to Order at 5:32 p.m.

Roll Call: Council Member Reyes, Council Member Hamilton, Council Member Flores, Vice Mayor Ward, Mayor Stowe

**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: 240-050-026. Agency Negotiator: Patrice Hildreth and Jenni Byers. Negotiating Parties: City of Porterville and Porterville Masonic Properties, Inc. Under Negotiation: Terms and Price.
  - 2** - Government Code Section 54956.95 – Liability Claim: Claimant: Evangelina Gomez. Agency claimed against: City of Porterville.
  - 3** - Government Code Section 54956.95 – Liability Claim: Claimant: Rachel Munoz. Agency claimed against: City of Porterville.
  - 4** - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Judith Howard v. City of Porterville, et al., U.S. District Court Case No. 1:16-cv-01071-AWI-SAB.
  - 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 plaintiff.
  - 6** - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One case. **7** - Government Code Section 54957 - Public Employee Evaluation - Title: City Manager.
  - 8** - Government Code Section 54957 - Public Employee Evaluation - Title: City Attorney.

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

City Attorney Lew reported action pertaining to A6, as follows:

- A-6. On a MOTION made by Council Member Hamilton, and SECONDED by Council Member Reyes the City Council unanimously approved an amendment to the Perrigo lease resulting in a deferral of the December payment and an increase in equal amounts to the July and December of 2017 payments.

Documentation: M.O. 01-122016

Disposition: Approved.

Pledge of Allegiance Led by Council Member Hamilton  
Invocation – a moment of silence was observed.

### **AB 1234 REPORTS**

1. Tulare County Association of Governments (TCAG) - December 12, 2016  
Council Member Hamilton reported on presentations from cities regarding upcoming projects and presentation of bicycles to youth for poster contest.

### **REPORTS**

- I. City Commission and Committee Meetings
  1. Parks & Leisure Services Commission - December 8, 2016  
Chair Vafeades presented the Commission's report which included information pertaining to the Senior Christmas Dinner, Youth Center Christmas Dinner, Zalud House Candlelight Tours, Winter Day Camp, Arena Soccer registration, and the Annual New Year's Eve Gala.
  2. Library & Literacy Commission - December 13, 2016  
Commissioner Figueroa presented November highlights and participation statistics; and encouraged participation in winter programs and activities.
  3. Arts Commission – no report.
  4. Animal Control Commission - December 12, 2016  
Chair Pizanis reported on the Commission's consideration of its Facebook wish list; and Commissioner Stadtherr reported monthly statistics pertaining to animal control activities.
  5. Youth Commission - December 12, 2016 – no report.
  6. Transactions and Use Tax Oversight Committee (TUTOC) – no report.
- II. Staff Informational Reports
  1. Water Conservation Phase III Status Update
  2. Porterville Animal Control Commission Memorandum - Funding the New Animal Shelter

### **ORAL COMMUNICATIONS**

- Joyce Lopez, East Porterville, spoke in opposition to Item No. 13 due to a desire to place a second home on her mother's property to care for her.
- Brock Neeley, Porterville, wished the Council and City staff a merry Christmas and happy New Year.
- Marco Lopez, East Porterville, stated granting their request for a second water connection would be in the spirit of helping people.

- John Alvarez, American Caregivers Facility, spoke in favor of a medical cannabis facility in Porterville.

### **CONSENT CALENDAR**

Item No. 2 was pulled from the Consent Calendar for discussion.

**COUNCIL ACTION:**      MOVED by Vice Mayor Ward, SECONDED by Council Member Hamilton that the City Council approve Items Nos. 1, and 3 through 9. The motion carried unanimously.

#### 1.      CITY COUNCIL MINUTES OF DECEMBER 15, 2015, AND DECEMBER 13, 2016

Recommendation:      That the Council approve the draft Minutes of December 15, 2015, and December 13, 2016.

Documentation:          M.O. 02-122016

Disposition:            Approved.

#### 3.      AUTHORIZATION TO REPAIR CITY WELL 11

Recommendation:      That City Council:

1. Direct the Finance Director to initiate a Purchase Order to Valley Pump & Dairy Systems in an amount not to exceed \$25,475 for the repair of City Well No. 11; and
2. Direct the Finance Director to make payment to Valley Pump & Dairy Systems upon receipt of invoice approved by the Public Works Director.

Documentation:          M.O. 03-122016

Disposition:      Approved.

#### 4.      ACCEPTANCE OF PROJECT - LIME STREET AND LAUREL AVENUE SEWER AND WATER PROJECT

Recommendation:      That City Council:

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

Documentation:          M.O. 04-122016

Disposition:      Approved.

#### 5.      INTENT TO VACATE - MEDIAN AVENUE AND MILO STREET

Recommendation:      That the City Council:



1. Pass a resolution of intent to vacate Median Avenue and Milo Street;
2. Direct the City Clerk to publish the Public Notice in the Porterville Recorder; and
3. Set the Council meeting of February 7, 2017, as the time and place for a public hearing.

Documentation: Resolution No. 82-2016

Disposition: Approved.

6. AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR PROVISIONS OF SERVICES WITH EPLAN SOLUTIONS, INC TO ALLOW ELECTRONIC PLAN SUBMITTALS

Recommendation: That City Council:

1. Approve the Agreement for Provisions of Services with ePlan Solutions, Inc.; and
2. Authorize the Mayor to sign the agreement.

Documentation: M.O. 05-122016

Disposition: Approved.

7. APPROVAL OF THE EASTERN TULE SUSTAINABLE GROUNDWATER AGENCY (GSA) JOINT POWER AGREEMENT (JPA)

Recommendation: That City Council:

1. Approve the amended Eastern Tule GSA Joint Powers Agreement; and
2. Authorize the Mayor to sign the document.

Documentation: M.O. 06122016

Disposition: Approved.

8. ASSIGNMENT OF AIRPORT LEASE - LOT 34B

Recommendation: That the City Council approve the Assignment of Lease for Lot 34B between the City of Porterville and Mr. Bruce Kaiser to Dr. Donald Cornthforth; and authorize the Mayor to sign the Lessor's Consent to Assignment of Lease Agreement on behalf of the City.

Documentation: M.O. 07-122016

Disposition: Approved.

9. RENEWAL OF AIRPORT LEASE AGREEMENT - LOT 40

Recommendation: That City Council approve the Lease Agreement between the City of Porterville and Mr. Dana Gillespie and Mrs. Susan Peck for Lot 40 at the Porterville Municipal Airport.

Documentation: M.O. 08-122016  
Disposition: Approved.

### **PUBLIC HEARINGS**

10. CONSIDERING APPROVAL OF A CONDITIONAL USE PERMIT (PRC 2016-030-C) TO ALLOW SAN JOAQUIN VALLEY COLLEGE, A PRIVATE COLLEGE, TO BE LOCATED AT 314 N. MAIN STREET

Recommendation: That the City Council confirm the Zoning Administrator's determination which would limit instructional space to less than 5,000 square feet and adopt the draft resolution approving Conditional Use Permit (PRC 2016-030C) to allow San Joaquin Valley College, a private college, to be located at 314 N. Main Street subject to conditions of approval.

Administrative Services Director/Acting City Manager Patrice Hildreth introduced the item, and Community Development Manager Julie Phillips presented the staff report. Following the report, Council Members Reyes and Hamilton inquired about flow of traffic through the parking lot, displacement of parking, and the existing parking district. Staff advised that the

The Public Hearing was opened at 7:14 p.m.

- Steve Perry, Director Real Estate Development for SJVC, spoke of difficulties finding locations conducive to their needs and with adequate parking, of the scheduling of classes and student profile. He also inquired about the possibility of expansion at a neighboring building; and addressed questions regarding courses offered.
- Brock Neeley inquired about the parking lot stall formula, and suggested that it might need to be amended to accommodate use.
- Richard Stadtherr stated that he had worked at the location from 2001 to 2006 when there were 45 employees, and spoke of use of parking at that time.

The Public Hearing was closed at 7:26 p.m.

Council Member Hamilton requested that staff figure out how to address the issue of parking, as it would likely be an issue at Main Street and Olive Avenue; and Council Member Reyes suggested the parking lot entrance to the north be modified to allow traffic in both directions to improve access and utilization.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Flores that the City Council confirm the Zoning Administrator's determination which would limit instructional space to less than 5,000 square feet and adopt the draft resolution approving Conditional Use Permit (PRC 2016030C) to allow San Joaquin Valley College, a private college, to be located at 314 N. Main Street subject to conditions of approval. The motion carried unanimously.

Documentation: Resolution No. 83-2016  
Disposition: Approved.

**SCHEDULED MATTERS**

11. ACCEPTANCE OF THE SUPPLEMENTAL PROJECT REPORT FOR THE DRAFT PROJECT APPROVAL & ENVIRONMENTAL DOCUMENT (PA & ED) STAGE - STATE ROUTE 190 NEAR TERM PROJECTS

Recommendation: That the City Council:

1. Accept Caltrans' State Route 190 Draft Supplemental Project Report to the State Route 190 PA & ED;
2. Authorize the Acting Public Works Director to sign the Draft Supplemental Project Report to the State Route 190 PA & ED; and
3. Authorize circulation of the environmental document for the identified Near Term Projects, inclusive of the roundabout at the College Avenue/Plano Street intersection.

Administrative Services Director/Acting City Manager Patrice Hildreth introduced the item, and Acting Public Works Director Mike Reed presented the staff report and introduced Curt Hatton from Caltrans.

Curt Hatton, Project Manager with Caltrans gave a presentation regarding the current phase and proposed project improvements.

Acting Public Works Director Reed addressed questions and concerns from the Council regarding funding of the proposed roundabout at Plano Street and College Avenue, traffic conditions created by poor planning of school locations, and the complex design of the roundabout.

In response to questions from the Council, Mr. Hatton played a micro simulation to demonstrate traffic pattern movement, and spoke of comparable roundabouts in existence in California.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Reyes that the City Council accept Caltrans' State Route 190 Draft Supplemental Project Report to the State Route 190 PA & ED; authorize the Acting Public Works Director to sign the Draft Supplemental Project Report to the State Route 190 PA & ED; and authorize circulation of the environmental document for the identified Near Term Projects, inclusive of the roundabout at the College Avenue/Plano Street intersection. The motion carried unanimously.

Documentation: M.O. 08-122016  
Disposition: Approved.

The Council took a ten minute recess at 8:05 p.m.

## 12. BID RESULTS FOR THE GARDEN AVENUE PEDESTRIAN WALKWAY PROJECT

Recommendation: That City Council:

1. Award the Garden Avenue Pedestrian Walkway Project to DOD Construction in the amount of \$607,635.00;
2. Authorize a 10% contingency to cover unforeseen construction costs;
3. Authorize 5% for construction management, quality control and inspection;
4. Authorize the Finance Director to appropriate additional Local Transportation Funds in the amount of \$111,465.57 needed to fund the project; and
5. Authorize the City Engineer to sign the SCE applications and issue payments of \$54,347.40 and \$11,019.67 for each street light system.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and Acting Public Works Director Reed presented the staff report. During his staff report Mr. Reed attributed the increased costs to concrete.

In response to questions posed by the Council, Mr. Reed spoke regarding delays associated with the project and prevailing wage.

COUNCIL ACTION: MOVED by Council Member Flores, SECONDED by Council Member Hamilton that the City Council award the Garden Avenue Pedestrian Walkway Project to DOD Construction in the amount of \$607,635.00; authorize a 10% contingency to cover unforeseen construction costs; authorize 5% for construction management, quality control and inspection; authorize the Finance Director to appropriate additional Local Transportation Funds in the amount of \$111,465.57 needed to fund the project; and authorize the City Engineer to sign the SCE applications and issue payments of \$54,347.40 and \$11,019.67 for each street light system. The motion carried unanimously.

Documentation: M.O. 09-122016

Disposition: Approved.

## 13. CONSIDERATION OF MODIFICATIONS OF EXTRATERRITORIAL SERVICE AGREEMENTS

Recommendation: That the City Council:

1. Postpone action on additional connections for new homes until after ownership of the system has transferred to the City; and
2. Direct staff to begin drafting policies and procedures to be considered concurrent with the transfer of ownership to the City.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and Community Development Manager Julie Phillips presented the staff report. Following the staff report, City Attorney Lew stated that the Mayor would be disqualifying himself due to a potential conflict of interest concerning a contractual business relationship. Mayor Stowe then exited the room.

Acting Public Works Director Reed addressed questions regarding the transfer of ownership of the system; and he and Ms. Phillips expressed concerns regarding capacity and development standards. City Attorney Lew also advised of State law pertaining to second units, and recommended that the City receive buy-in from the State to avoid violation of the agreement.

Discussion followed regarding staff's attempts to educate East Porterville residents regarding water when it came to permits issued by the County; and Mr. Reed stated that he would reach out to the County and State.

COUNCIL ACTION:      MOVED by Council Member Hamilton, SECONDED by Council Member Reyes that the City Council postpone action on additional connections for new homes until after ownership of the system has transferred to the City; and direct staff to begin drafting policies and procedures to be considered concurrent with the transfer of ownership to the City.

|          |                               |
|----------|-------------------------------|
| AYES:    | Reyes, Hamilton, Flores, Ward |
| NOES     | None                          |
| ABSTAIN: | Stowe                         |
| ABSENT:  | None                          |

Documentation:      M.O. 10-122016  
Disposition:      Approved.

Mayor Stowe returned to the dais.

#### 14.      LEGISLATIVE UPDATE REGARDING PROPOSITION 64

Recommendation:      That the City Council:

1. Review the portions of the new law that are subject to local regulation and provide direction to staff concerning those areas of local control; and
2. Direct staff to review the City's current regulations concerning medical marijuana in light of the new laws regulating nonmedical use.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and City Attorney Julia Lew presented the staff report.

Following discussion regarding education of safety hazards associated with indoor cultivation, a registration process, medical marijuana permits, staff concerns, and commercial and agricultural operations, the Council directed staff to schedule a study session in March.

Documentation: None.

Disposition: Direction given.

#### 15. OHV PARK MANAGEMENT SERVICES

Recommendation: That the City Council provide direction to staff on OHV Park management services.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and Park and Leisure Services Director Donnie Moore presented the staff report.

- Dave Walker, Friends of Kern Open Space, spoke of efforts to keep the park open, and of competition from other parks and in the grant application process.

Discussion followed regarding operational expenses, ridership, and the grant application process.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member Flores that the City Council approve a budget of \$30,000 for funding of OHV Park through June 30, 2017. The motion carried unanimously.

Documentation: M.O. 11-122016

Disposition: Approved.

#### 16. CONSIDER ADMINISTRATION OF A CODE ENFORCEMENT RESIDENT SURVEY

Recommendation: That the City Council consider the Draft Resident Survey, and provide direction considering its potential administration.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and Community Development Manager Julie Phillips presented the staff report.

The Council made suggestions regarding the order of the questions, the language used, and questions asked; and directed that Council Member Reyes and Vice Mayor Ward meet with staff to amend the survey.

Documentation: None.

Disposition: Approved.

## 17. STATUS AND REVIEW OF DECLARATION OF LOCAL 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.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and Acting Public Works Director Reed presented the staff report.

**COUNCIL ACTION:** MOVED by Vice Mayor Ward, SECONDED by Council Member Flores that the City Council approve the continued Declaration of Local Emergency. The motion carried unanimously.

Documentation: M.O. 13-122016

Disposition: Approved.

### **CONSENT CALENDAR (Items Pulled)**

#### 2. AUTHORIZATION TO PURCHASE TWO PICNIC SHELTERS

Recommendation: That the City Council authorize the purchase and installation of two picnic shelters with CDBG Park Improvement Program funds from MRC GameTime not to exceed \$55,439.73.

Administrative Services Director/Acting City Manager Hildreth introduced the item, and the staff report was waived at the Council's request.

Parks and Leisure Services Director Moore addressed questions regarding the cost, which was attributed to the cost of steel and prevailing wage, and utilization of the disc golf course.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member Reyes that the City Council approve the continued Declaration of Local Emergency. The motion carried unanimously.

Documentation: M.O. 14-122016

Disposition: Approved.

### **ORAL COMMUNICATIONS**

- Frank Williams lauded the Council for being proactive in its consideration of Proposition 64; welcomed an opportunity to participate in the upcoming study session and process; and spoke of his desire to provide safe and reliable access to medical cannabis for those who need it.
- Brock Neeley inquired about the percentage of return at the municipal golf course; and stated that marijuana was now legal and compared its regulation to that of alcohol.
- Mike Dunaway stated that he was an expert in the medical cannabis industry; made himself available as a resource to the Council; and recommend that the Council visit a facility in the Bay Area or Los Angeles.

- Shawn Lipinski, owner of HOH Garden Supplies, stated that he had six successful stores in California; and spoke of a loss of revenue to the area from people traveling to the Bay area for baby plants.

### **OTHER MATTERS**

- Council Member Hamilton stated that the heat was turned up too high.
- Council Member Reyes thanked the Police Department, Chamber of Commerce, and City for their work at the Santa event last week.
- Vice Mayor Ward thanked Acting City Manager Patrice Hildreth for filling in for Mr. Lollis; wished everyone a merry Christmas; welcomed Council Member Flores; and thanked Mayor Stowe for serving as Mayor.
- Acting City Manager Hildreth noted upcoming retirement of Glenn Irish and Bryan Styles; and reported hiring of Kirk Swartzlander as Interim Fire Chief.
- Mayor Stowe wished everyone a merry Christmas and a happy New Year; and thanked those who spoke about marijuana for sticking around.

### **CLOSED SESSION**

None

### **ADJOURNMENT**

The Council adjourned at 10:28 p.m. to the meeting of January 17, 2017.

SEAL

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Luisa M. Zavala, Deputy City Clerk

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Milt Stowe, Mayor



**CITY COUNCIL MINUTES  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
JANUARY 17, 2017, 5:30 PM**

Call to Order at 5:33 p.m.

Roll Call: Council Member Reyes, Council Member Hamilton, Council Member Flores, Vice Mayor Ward, Mayor Stowe

**ORAL COMMUNICATIONS**

None

**CITY COUNCIL CLOSED SESSION:**

A. Closed Session Pursuant to:

- 1** - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: 1893 South Newcomb Street. Agency Negotiator: John Lollis and Maria Bemis. Negotiating Parties: City of Porterville and Richard Chilcutt. Under Negotiation: Terms and Price.
- 2** - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 253-124-015. Agency Negotiator: John Lollis and Jenni Byers. Negotiating Parties: City of Porterville and JCH Family Limited Partnership. Under Negotiation: Terms and Price.
- 3** - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Che Johnson. Employee Organizations: Porterville City Firefighters Association and Fire Officers Series.
- 4** - Government Code Section 54956.95 – Liability Claim: Claimant: Ashley Thomas. Agency claimed against: City of Porterville.
- 5** - Government Code Section 54956.95 -- Liability Claim: Claimant: State Farm Insurance, as Subrogee for Emilio Gutierrez. Agency claimed against: City of Porterville.
- 6** - Government Code Section 54956.9(d)(1) - Conference with Legal Counsel -- Existing Litigation: Dalilah Micaela Gonzalez Pacheco, a minor, by and through her guardian ad litem, Maria De Jesus Pacheco v. Hishmeh Enterprises, Inc., et al., Tulare County Superior Court Case No. 259965.
- 7** - Government Code Section 54956.9(d) (3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Two Cases in which facts are not yet known to potential plaintiff.
- 8** - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two Cases.

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

City Attorney Lew reported action pertaining to A-4 and A-5, as follows:

A-4. On a MOTION made by Vice Mayor Ward, and SECONDED by Council Member Hamilton the City Council unanimously reject the claim made by Ashley Thomas.

Documentation: M.O. 01-011717

Disposition: Claim Rejected.

A-5. On a MOTION made by Vice Mayor Ward, and SECONDED by Council Member Flores the City Council unanimously reject the claim made by State Farm Insurance, as Subrogee for Emilio Gutierrez.

Documentation: M.O. 02-011717

Disposition: Claim Rejected.

Pledge of Allegiance Led by Council Member Martha A. Flores

Invocation – A moment of silence was observed.

### **PRESENTATIONS**

Employee of the Month - Gabriela Cruz

### **AB 1234 REPORTS**

None

### **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 - January 5, 2017**

Commission Chair Vafeades presented the Commission's monthly report which included information regarding: trimming of palm trees at Murry Park; the New Year's Eve Gala; City Pool reservations; activity calendar; adult and youth sports programs; and the Commission's recommendations to the Council pertaining to Item Nos. 9 and 12.

##### **2. Library & Literacy Commission - January 10, 2017**

Commissioner Bailey presented a report on the Commission's last meeting, which included discussion pertaining to: the development of a facilities master plan; a member of the public's concerns regarding the privacy of patrons with regard to use of computers at the library; and monthly statistics regarding program participants and volunteer activity. He also extended an invitation to view an art exhibit about the East Porterville water crisis that would be on display through May; and thanked the late Peter M. Brown for his contribution of \$158,351 to the library, which was the largest gift in the history of the library.

##### **3. Arts Commission – no report.**

##### **4. Animal Control Commission - January 9, 2017**

Commission Chair Pizanis reported statistics pertaining to animal control activity for the month of December 2016.

5. Youth Commission - January 9, 2017

Commissioner Villarreal provided an update on Operation Gratitude, and advised of drop-off boxes located at the Parks & Leisure Services Department and Library. Ms. Villarreal also spoke of the Commission's participation in judging of the StepUp banner contest, and coordination of this year's dodgeball tournament for local high schools.

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

II. Staff Informational Reports

1. Water Conservation Phase IV Status Update

**ORAL COMMUNICATIONS**

- Allan Bailey, Porterville, spoke in favor of Item No. 12.
- Sheila Pickrell, Porterville Museum Curator, requested photo opportunities with the Council to help promote the museum; and spoke of programs and upcoming activities.
- Brock Neeley, Porterville, suggested that the Council consider the establishment of fines for violation of all City ordinances; and cautioned the Council to carefully consider support of H.R. 23.

**CONSENT CALENDAR**

Items number 2 and 9 were pulled by staff for discussion.

**COUNCIL ACTION:** MOVED by Vice Mayor Ward, SECONDED by Council Member Hamilton that the City Council approve Items Nos. 1, 3-8, and 10-13. The motion carried unanimously.

1. CITY COUNCIL MINUTES OF MARCH 15, 2016, JULY 5, 2016, JULY 19, 2016, AUGUST 16, 2016, AND OCTOBER 18, 2016

Recommendation: That the Council approve the draft Minutes of March 15, 2016, July 5, 2016, July 19, 2016, August 16, 2016, and October 18, 2016.

Documentation: M.O. 03-011717

Disposition: Approved.

3. AUTHORIZATION TO ENTER INTO AGREEMENT FOR THE LEASE OF MAILING AND SHIPPING SYSTEM, FOLDER-INSERTER AND LETTER OPENER

Recommendation: That the City Council authorize the Finance Director to execute an agreement with Pitney Bowes for the lease and maintenance of a mailing and shipping system and a folder-inserter for \$673.64 per month plus any applicable taxes for a five-year term.

Documentation: M.O. 04-011717

Disposition: Approved.

4. AUTHORIZATION TO NEGOTIATE A CONTRACT - CONSULTANT SERVICES  
FOR THE REVIEW OF THE WASTEWATER BIOSOLIDS MANAGEMENT PLAN

Recommendation: That City Council:

1. Accept the Scope of Services provided by Carollo Engineers, Inc.;  
and
2. Authorize the Public Works Director to execute the Service  
Agreement.

Documentation: M.O. 05-011717

Disposition: Approved.

5. AIRPORT DRY FARM LEASE AMENDMENT

Recommendation: That the City Council approve Amendment No. 1 to the Lease Agreement between the City of Porterville and Rick Perigo Roadsiding for dry farming at the Porterville Municipal Airport effective January 1, 2017.

Documentation: M.O. 06-011717

Disposition: Approved.

6. STATUS REPORT - DEVELOPER IMPACT FEES

Recommendation: That the City Council accept the Status Report on Developer Impact Fees for the Fiscal Year Ended June 30, 2016.

Documentation: M.O. 07-011717

Disposition: Approved.

7. CDBG CITIZENS' ADVISORY AND HOUSING OPPORTUNITY COMMITTEE  
AND CITIZEN PARTICIPATION PLAN

Recommendation: That the City Council:

1. Adopt the 2017 Citizen Participation Plan; and
2. Appoint existing committee members Pat Contreras, Maria Gonzalez, Doug Heusdens, Kelle Jo Lowe, Linda Mendez, Grace Muños-Rios, and Rebecca Vigil, to the Citizens' Advisory and Housing Opportunity Committee for a one-year term.

Documentation: M.O. 08-011717

Disposition: Approved.

8. TRANSFER OF SUCCESSOR AGENCY PROPERTIES TO THE CITY OF PORTERVILLE

Recommendation: That the City Council:

1. Authorize staff to begin escrow;
2. Adopt the draft resolution accepting properties from the Successor Agency to the Porterville Redevelopment Agency;
3. Authorize the Mayor and City Manager to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution No. 01-2017

Disposition: Approved.

10. APPROVAL FOR COMMUNITY CIVIC EVENT - BOYS AND GIRLS CLUB - LOVE OUR KIDS 5K FUN RUN - FEBRUARY 18, 2017

Recommendation: That the City Council approve the Community Civic Event Application and Agreement from the Boys and Girls Club, subject to the Restrictions and Requirements contained in the Application, Agreement, Exhibit A and Exhibit B of the Community Civic Event Application.

Documentation: M.O. 09-011717

Disposition: Approved.

11. CITY COUNCIL MEMBER REQUESTED AGENDA ITEM - CONSIDER ADJUSTMENT OF ANIMAL SHELTER ADOPTION FEES

Recommendation: That the City Council approve Vice Mayor Ward's request to consider the adjustment of Animal Shelter adoption fees as a Scheduled Matter at the February 7th Council meeting.

Documentation: M.O. 10-011717

Disposition: Approved.

12. CITY COUNCIL MEMBER REQUESTED AGENDA ITEM - CONSIDER ESTABLISHING A PERMIT TO ALLOW RESIDENTS TO MODIFY THE EVEN/ODD WATERING SCHEDULE

Recommendation: That the City Council approve Vice Mayor Ward's request to consider the establishment of a permit to allow residents to modify the even/odd watering schedule as a Scheduled Matter at the February 7th Council meeting.

Documentation: M.O. 11-011717  
Disposition: Approved.

13. CITY COUNCIL MEMBER REQUESTED AGENDA ITEM - CONSIDER  
ESTABLISHING A FINE FOR VIOLATING THE CITY'S SIGN ORDINANCE

Recommendation: That the City Council approve Vice Mayor Ward's request to consider the establishment of a fine for violating the City's Sign Ordinance as a Scheduled Matter at the February 7th Council meeting.

Documentation: M.O. 12-011717  
Disposition: Approved.

**SCHEDULED MATTERS**

14. BID RESULTS - ISLAND ANNEXATION SEWER PROJECT 456A, B, C, & 457

Council Member Flores noted a conflict of interest and stepped out of Council Chambers.

Recommendation: That City Council direct staff to:

1. Reject all bids and authorize the City Engineer to re-advertise the project for new bids per policy; or
2. Reject all bids and authorize the City Engineer to re-advertise and change the scope of the design of the project; or
3. Reject all bids and authorize the City Engineer to re-advertise and select which annexation areas will receive infrastructure that is within the available budget.

City Manager Lollis introduced the item and Acting Public Works Director Mike Reed presented the staff report.

Council Member Ward recommended that staff break up the project into smaller projects in order to receive more favorable bids and to encourage smaller contractors to bid.

**COUNCIL ACTION:** MOVED by Council Member Cameron Hamilton, SECONDED by Vice Mayor Brian Ward that the City Council Reject all bids and authorize the City Engineer to re-advertise and change the scope of the design of the project.

AYES: Reyes, Hamilton, Ward, Stowe  
NOES: None  
ABSTAIN: Flores  
ABSENT: None

Documentation: M.O. 13-011717

Disposition: Approved.

15. ZALUD HOUSE PARANORMAL TOURS

Recommendation: That the City Council provide direction on Zalud House paranormal tours.

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

The council discussed the benefit of the extra funding coming from the paranormal tours but also thought that the prices should be raised in order to reflect the value of the Zalud House. They also voiced their concerns regarding theft and damage to items in the house. The council recommended that the City ask for deposits and signed contracts before the tours to try to avoid theft and damage. They also recommended that a staff member be on site at all times during a paranormal tour.

COUNCIL ACTION: MOVED by Mayor Milt Stowe, SECONDED by Council Member Cameron Hamilton that the City Council direct staff to continue to hold paranormal tours for amateur groups and come to Council for approval of any professional groups interested in conducting investigations. The motion carried unanimously.

Documentation: M.O. 14-011717

Disposition: Approved.

16. LETTER OF SUPPORT FOR H.R. 23 - GAINING RESPONSIBILITY ON WATER ACT OF 2017

Recommendation: That the City Council:

1. Consider H.R. 23 (as introduced on January 3, 2017); and
2. If approved, authorize the Mayor to sign the draft Letter of Support.

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

COUNCIL ACTION: MOVED by Council Member Cameron Hamilton, SECONDED by Vice Mayor Brian Ward that the City Council approve the letter of support for H.R. 23 and authorize the Mayor to sign it. The motion carried unanimously.

Documentation: M.O. 15-011717

Disposition: Approved.

17. STATUS AND REVIEW OF DECLARATION OF LOCAL 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.

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

COUNCIL ACTION: MOVED by Vice Mayor Brian Ward, SECONDED by Council Member Monte Reyes that the City Council approve the continued Declaration of Local Emergency. The motion carried unanimously.

Documentation: M.O. 16-011717

Disposition: Approved.

Adjourn to a meeting of the Successor Agency to the Porterville Redevelopment Agency.

**Consent Calendar Continued**

2. AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH INTERWEST CONSULTING GROUP INC., TO ALLOW GENERAL THIRD PARTY PLAN REVIEW WHEN NEEDED BY THE CITY

Recommendation: That City Council:

1. Approve the Professional Services Agreement with Interwest Consulting Group, Inc.; and
2. Authorize the Public Works Director to sign the Agreement.

The City Attorney asked that the Council to approve the item subject to the City Attorney and Staff being able to agree with the consultants on changes in a clause regarding the limitation of liability.

COUNCIL ACTION: MOVED by Mayor Milt Stowe, SECONDED by Council Member Cameron Hamilton that the City Council follow the recommendations made by the City Attorney, approve the Professional Services Agreement with Interwest Consulting Group, Inc. and authorize the Public Works Director to sign the Agreement. The motion carried unanimously.

Documentation: M.O. 17-011717

Disposition: Approved.

9. APPROVAL OF CITY CONCESSION LICENSES

Recommendation: That the City Council approve the concession licenses with Porterville Girls Fastpitch for the 2017 Hayes Field license, AYSO for the Spring 2017 Sports Complex license, and PYSL for the Fall 2017 Sports Complex license, and authorize and direct the Mayor to execute the same.



The City Attorney recommended that the Council approve the item with an added clause in the contract regarding the mandatory passing of a drug and alcohol test, finger print scan, and background check by all concession contractors. The clause would also state that all employees have a neat and well-groomed appearance, be professional, and allow the City to immediately terminate any agreement upon the apparent commission of a crime.

COUNCIL ACTION: MOVED by Mayor Milt Stowe, SECONDED by Council Member Cameron Hamilton that the City Council follow the recommendations made by the City Attorney and approve the concession licenses with Porterville Girls Fastpitch for the 2017 Hayes Field license, AYSO for the Spring 2017 Sports Complex license, and PYSL for the Fall 2017 Sports Complex license, and authorize and direct the Mayor to execute the same. The motion carried unanimously.

Documentation: M.O. 18-011717

Disposition: Approved.

**SUCCESSOR AGENCY TO THE**  
**PORTERVILLE REDEVELOPMENT AGENCY AGENDA**  
**291 NORTH MAIN STREET, PORTERVILLE, CA 93257**  
**JANUARY 17, 2017**

Roll Call: Agency Member Flores, Agency Member Reyes, Agency Member Hamilton, Agency Vice Chair Ward, Agency Chair Stowe

**WRITTEN COMMUNICATION**

None

**ORAL COMMUNICATIONS**

None

**SUCCESSOR AGENCY SCHEDULED MATTERS**

18. SUCCESSOR AGENCY MINUTES OF OCTOBER 18, 2016

Recommendation: That the Successor Agency approve the draft Minutes of October 18, 2016.

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

COUNCIL ACTION: MOVED by Vice Chair Brian Ward, SECONDED by Agency Member Martha Flores that the Successor Agency approve the draft minutes of October 18, 2016. The motion carried unanimously.

Documentation: SA M.O. 01-011717  
Disposition: Approved.

19. APPOINTMENT OF A NEW MEMBER TO THE OVERSIGHT BOARD

Recommendation: Information item only. No action required.

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

COUNCIL ACTION: MOVED by Vice Chair Brian Ward, SECONDED by Agency Member Martha Flores that the Successor Agency receive the informational report. The motion carried unanimously.

Documentation: SA M.O. 02-011717  
Disposition: Approved.

20. REVIEW AND APPROVAL OF PROPOSED ADMINISTRATIVE BUDGET

Recommendation: That the Successor Agency adopt the draft Resolution approving the Administrative Budget for the period of July 1, 2017, through June 30, 2018, and direct Successor Agency staff to submit the Administrative Budget to the Oversight Board.

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

COUNCIL ACTION: MOVED by Vice Chair Brian Ward, SECONDED by Agency Member Martha Flores that the Successor Agency adopt the draft Resolution approving the Administrative Budget for the period of July 1, 2017, through June 30, 2018, and direct Successor Agency staff to submit the Administrative Budget to the Oversight Board. The motion carried unanimously.

Documentation: SA Resolution No. 2017-01  
Disposition: Approved.

21. REVIEW AND APPROVAL OF DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR FISCAL YEAR 2017-18

Recommendation: That the Successor Agency adopt a Resolution approving the Recognized Obligation Payment Schedule 17-18 for the period of July 1, 2017, through June 30, 2018, provided that should any modification be required to the ROPS 17-18 by the DOF, the Executive Director and/or the Finance Director shall be authorized to make any augmentation, modification, additions or revisions as may be necessary to conform the ROPS 17-18 to requirements imposed

by the DOF and direct Successor Agency staff to submit the ROPS 17-18 to the Oversight Board.

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

**COUNCIL ACTION:**            MOVED by Vice Chair Brian Ward, SECONDED by Agency Member Martha Flores that the Successor Agency adopt a Resolution approving the Recognized Obligation Payment Schedule 17-18 for the period of July 1, 2017, through June 30, 2018, provided that should any modification be required to the ROPS 17-18 by the DOF, the Executive Director and/or the Finance Director shall be authorized to make any augmentation, modification, additions or revisions as may be necessary to conform the ROPS 17-18 to requirements imposed by the DOF and direct Successor Agency staff to submit the ROPS 17-18 to the Oversight Board. The motion carried unanimously.

Documentation:            SA Resolution No. 2017-02

Disposition:    Approved.

Adjourn to a meeting of the Porterville City Council.

### **ORAL COMMUNICATIONS**

None

### **OTHER MATTERS**

- Council Member Flores thanked City Manager Lollis and City staff for their assistance to her.
- Council Member Hamilton welcomed Interim Fire Chief Kirk Swartzlander; and thanked City Librarian Vikki Cervantes and Police Chief Eric Kroutil for their work in light of recent donations to the Library and Police Department.
- Council Member Reyes announced that he recently celebrated his 44<sup>th</sup> birthday.
- Vice Mayor Ward spoke of the recent observance of Martin Luther King Day and expressed appreciation for MLK's contributions.
- Mayor Stowe stated that he was grateful for this past holiday season, and wished continued blessings for 2017.
- City Manager Lollis thanked Mr. Swartzlander for serving as Interim Fire Chief; thanked staff for their hard work in his absence; spoke of his trip overseas; expressed gratitude for the quality of life we enjoy; and spoke of upcoming meetings regarding the Eastern Tule GSA, casino relocation, county tourism, AB1234, and sexual harassment prevention. He added that Homeless Connect was taking place on January 27<sup>th</sup>.

### **CLOSED SESSION**

The Council took a five minute recess at 7:47 p.m. and reconvened in Closed Session. No reportable action took place in Closed Session.

**ADJOURNMENT**

The Council adjourned at 8:15 p.m. to the meeting of January 31, 2017.

SEAL

\_\_\_\_\_  
Luisa M. Zavala, Deputy City Clerk

\_\_\_\_\_  
Milt Stowe, Mayor



## CITY COUNCIL AGENDA – MARCH 7, 2017

**SUBJECT:** Authorization to Execute an Agreement to Designate Deer Creek and Tule River Authority (DCTRA) as Fiscal Agent for the Tule Subbasin Sustainable Groundwater Management Act (SGMA) Planning Grant

**SOURCE:** Public Works

**COMMENT:** On November 16, 2016, the Stakeholder Group of Tule Subbasin SGMA MOU met to discuss progression towards the creation of a Coordination Agreement and other aspects of SGMA. One important topic was the upcoming yearly budget beginning October 1, 2016. The budget cycle for this group is October 1 to September 30 of every year and the proposed budget is attached as Attachment Item No. 1 for Council's reference.

Total proposed budget for this budget cycle is \$397,589 and a component of the budget is the Tulare County grant of \$237,589, as previously discussed in prior City Council meetings. An additional \$160,000 is required when including the grant funds within the budget and this amount will be equitably distributed to Stakeholder Members based on mutually consented acreage basis. The City of Porterville's share is attached as Attachment Item No. 2 and the share being \$3,926.24, which is well within the funding allocation recently approved by City Council.

As part of the budget discussion was the need to define a responsible fiscal agent. The majority of the members were in favor of designating Deer Creek & Tule River Authority as the fiscal agent for the Tule Subbasin SGMA MOU Group. This authority would be responsible for tracking and accounting for all grant funds received and spent. The authority will also be responsible for accounting all funds received, costs incurred, and amounts paid on behalf of the Tule Subbasin SGMA MOU Group. An agreement to this effect is attached as Attachment Item No. 3 for Council's reference.

**RECOMMENDATION:** That City Council:

1. Approve the Tule Subbasin SGMA MOU Group's recommendation to appoint Deer Creek & Tule River Authority as the fiscal agent for the group; and
2. Authorize the Mayor to execute the Agreement to Designate the Deer Creek & Tule River Authority as Fiscal Agent for the Tule Subbasin Planning Grant.

- ATTACHMENTS:
1. Proposed Tule Subbasin SGMA MOU Group 2017 Budget
  2. Proposed Assessments for this Budget Cycle
  3. DCTRA Fiscal Agent Agreement

Appropriated/Funded:

Review By:

Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager

TULE SUBBASIN  
SUSTAINABLE GROUNDWATER MANAGEMENT ACT  
MOU GROUP

2017 BUDGET COMPARISON  
OCTOBER 1, 2016 - DECEMBER 31, 2016

| Cost Code                                            | Task                                                                                 | Approved Budget<br>(10.1.16 - 9.30.17) | Actual Expense<br>(10.1.16 - 12.31.16) | Percent of<br>Budget | Funding Allocations            |                            |
|------------------------------------------------------|--------------------------------------------------------------------------------------|----------------------------------------|----------------------------------------|----------------------|--------------------------------|----------------------------|
|                                                      |                                                                                      |                                        |                                        |                      | Tulare County<br>Grant Portion | Additional Funds<br>Needed |
| <u>Groundwater Sustainability Agency Development</u> |                                                                                      |                                        |                                        |                      |                                |                            |
| 200                                                  | DCTRA Administration                                                                 | \$0                                    | \$240                                  |                      | \$0                            | \$0                        |
| 201                                                  | Identification/Coordination of Interested Parties                                    | \$500                                  | \$0                                    | 0.0%                 | \$500                          | \$0                        |
| 202                                                  | MOU Meetings/Minutes                                                                 | \$20,000                               | \$5,049                                | 25.2%                | \$20,000                       | \$0                        |
| 203                                                  | Outreach Activities / Engagement Plan / Website                                      | \$15,000                               | \$0                                    | 0.0%                 | \$15,000                       | \$0                        |
| 204                                                  | Subbasin Maps (GSA support)                                                          | \$2,500                                | \$638                                  | 25.5%                | \$2,500                        | \$0                        |
| 205                                                  | Coordination Agreement Template & Draft Elements                                     | \$60,000                               | \$7,586                                | 12.6%                | \$30,000                       | \$30,000                   |
|                                                      | Sub-Total:                                                                           | \$98,000                               | \$13,512                               | 13.8%                | \$68,000                       | \$30,000                   |
| <u>Groundwater Sustainability Plan Coordination</u>  |                                                                                      |                                        |                                        |                      |                                |                            |
| 301                                                  | Historical Database of GW/Surface Water Supply/GW Contour Maps                       | \$15,000                               | \$1,565                                | 10.4%                | \$15,000                       | \$0                        |
| 302                                                  | Historical Database of Land Use and Cropping Patterns                                | \$25,000                               | \$658                                  | 2.6%                 | \$25,000                       | \$0                        |
| 303                                                  | Calculate Historical and Current Consumptive Use                                     | \$25,000                               | \$285                                  | 1.1%                 | \$25,000                       | \$0                        |
| 304                                                  | Develop Tule Subbasin Water Budget                                                   | \$20,000                               | \$313                                  | 1.6%                 | \$20,000                       | \$0                        |
| 305a                                                 | Prepare Preliminary Sustainable Groundwater Yield Report, including inflows/outflows | \$140,000                              | \$24,485                               | 17.5%                | \$60,000                       | \$80,000                   |
| 305b                                                 | Audit / Analyze / Prepare Preliminary Groundwater Model                              | \$50,000                               | \$0                                    | 0.0%                 | \$0                            | \$50,000                   |
| 306                                                  | Develop Groundwater Monitoring Plan Elements                                         | \$24,589                               | \$5,014                                | 20.4%                | \$24,589                       | \$0                        |
|                                                      | Sub-Total:                                                                           | \$299,589                              | \$32,319                               | 10.8%                | \$169,589                      | \$130,000                  |
| * - Includes Thomas Harder and Company Contract      |                                                                                      |                                        |                                        |                      |                                |                            |
|                                                      | Total:                                                                               | \$397,589                              | \$45,831                               | 11.5%                | \$237,589                      | \$160,000                  |

**TULE SUBBASIN**  
**SUSTAINABLE GROUNDWATER MANAGEMENT ACT**  
**MEMORANDUM OF UNDERSTANDING PARTIES**  
**Proposed 2016-2017 Assessments**

| <b>Party</b>                         | <b>Area<br/>(acres)</b> | <b>% of Total</b> | <b>Total<br/>Assessment<br/>Allocation</b> | <b>Quarterly<br/>Assessment</b> |
|--------------------------------------|-------------------------|-------------------|--------------------------------------------|---------------------------------|
| Alpaugh GSA                          | 18,810                  | 3.9%              | \$6,174.51                                 | <b>\$1,543.63</b>               |
| Angiola Water District*              | 9,595                   | 2.0%              | \$3,149.63                                 | <b>\$787.41</b>                 |
| City of Porterville*                 | 11,963                  | 2.5%              | \$3,926.94                                 | <b>\$981.73</b>                 |
| County of Tulare                     | 89,524                  | 18.4%             | \$29,386.88                                | <b>\$7,346.72</b>               |
| Deer Creek Storm Water District*     | 56,162                  | 11.5%             | \$18,435.57                                | <b>\$4,608.89</b>               |
| Kern-Tulare Water District           | 8,923                   | 1.8%              | \$2,929.04                                 | <b>\$732.26</b>                 |
| Delano Earlimart Irrigation District | 66,008                  | 13.5%             | \$21,667.59                                | <b>\$5,416.90</b>               |
| Pixley Irrigation District*          | 69,129                  | 14.2%             | \$22,692.08                                | <b>\$5,673.02</b>               |
| Lower Tule River Irrigation District | 103,047                 | 21.1%             | \$33,825.90                                | <b>\$8,456.47</b>               |
| Porterville Irrigation District*     | 14,538                  | 3.0%              | \$4,772.20                                 | <b>\$1,193.05</b>               |
| Saucelito Irrigation District        | 19,703                  | 4.0%              | \$6,467.65                                 | <b>\$1,616.91</b>               |
| Terra Bella Irrigation District      | 15,004                  | 3.1%              | \$4,925.17                                 | <b>\$1,231.29</b>               |
| Tea Pot Dome Water District          | 3,562                   | 0.7%              | \$1,169.25                                 | <b>\$292.31</b>                 |
| Vandalia Water District              | 1,455                   | 0.3%              | \$477.61                                   | <b>\$119.40</b>                 |
| <b>Total:</b>                        | <b>487,423</b>          | <b>100%</b>       | <b>\$160,000</b>                           | <b>\$40,000</b>                 |

Total Tule Subbasin Acreage: 477,382 acres  
2016-2017 Budget: \$160,000



**Agreement to Designate Deer Creek & Tule River Authority as  
Contracting Agent for the Tule Subbasin SGMA Planning Grant**

The parties below, in their capacity as the designated representatives of the Parties to the Agreement to Develop and Implement a Groundwater Sustainability Plan Coordination Agreement, referred to as the "Tule Basin SGMA MOU" and the Parties are referred to herein as "MOU Group" hereby agree the Deer Creek & Tule River Authority, ("DCTRA") a joint powers authority comprised of several entities that are located within the Tule Subbasin, shall serve as the agent on behalf of the Tule Basin SGMA MOU Group on the terms and conditions stated below.

1. The County of Tulare is the recipient of a grant, specifically a Proposition 1 Sustainable Groundwater Management Act (SGMA) Counties with Distressed Basins grant, ("Grant") and Tulare County is also a signatory to the Tule Basin SGMA MOU and a member of the MOU Group.
2. A portion of the Grant has been designated by Tulare County to be used by the MOU Group to offset the costs of SGMA compliance for the Tule Subbasin. However, the MOU Group is an unincorporated group that does not maintain separate insurance for its activities, does not maintain bank accounts for its activities, is not audited, and for the majority of activities requires all or at least two-thirds signatures of its members to take action. There is the need for the MOU Group to appoint an agent that could meet the contractual requirements of Tulare County and the State of California, that the grant recipient will maintain liability insurance, provide and maintain records subject to audit, and agree to be financially responsible for all grant funds.
3. DCTRA has previously been designated by the MOU Group to serve as the fiscal agent for the MOU Group, and DCTRA has agreed to serve as fiscal agent to manage the receipt and payment of funds on behalf of the MOU Group. In addition, to serving as fiscal agent, the MOU Group would appoint DCTRA to manage consultants on behalf of the MOU Group as an agent of the MOU Group, authorized to hire consultants on behalf of the MOU Group, referred to herein as the "Contracting Agent."
4. The MOU Group is authorized to take actions necessary to obtain grant funds by a two-thirds majority vote.
5. The MOU Group would under this document authorize DCTRA, as Contracting Agent, to hire consultants on behalf of the MOU Group pursuant to the following terms: DCTRA shall only hire consultants as specified in writing by at least a two-thirds majority of the MOU Group, and only for the specific purposes as designated in writing by the a two-thirds majority of the MOU Group. The tasks to be performed by any consultant must be designated in advance by the MOU Group and DCTRA shall not have authority to modify these tasks without prior written approval from the MOU Group. The MOU Group would also state the terms of payments to these consultants that will be followed by DCTRA. Consultants hired will be required to report to the MOU Group and the DCTRA will terminate the services of consultants on a written request by the MOU Group, signed by at least a two-thirds majority of the MOU Group.
6. The MOU Group is also authorizing DCTRA to sign any necessary agreement with Tulare County on behalf of the MOU Group to receive Grant funds.

7. Either DCTRA or the MOU Group may terminate this arrangement upon thirty days written notice. DCTRA shall be required to provide a full accounting and return any remaining funds it holds on behalf of the MOU Group after making any outstanding final payments to any consultants within ninety days of termination.

8. DCTRA shall not be responsible or liable for any costs incurred by or on behalf of the MOU Group; all consultant costs incurred by DCTRA for consultants it hires under the direction of the MOU Group shall be considered liabilities and the responsibility of the MOU Group. The MOU Group parties acknowledge that they will reimburse DCTRA for any costs it incurs while acting as the contracting agent for the MOU Group. DCTRA shall track its costs of serving as the contracting agent and bill the MOU Group for reimbursement of those costs.

9. MOU Group will agree to indemnify, defend, and hold harmless DCTRA, its directors, officers, agents, representatives, and volunteers from and against any and all claims, demands, defense costs, or liability of any kind or nature arising out of or in connection with DCTRA serving as Contracting Agent for the MOU Group.

10. MOU Group and DCTRA acknowledge this Agreement may be signed in any number of counterparts, each of which is an original and all of which taken together form one single document.

The Tule Basin SGMA MOU Parties signing on the pages attached hereby indicate they are in agreement with the designation of DCTRA as the Contracting Agent of the MOU Group on the terms stated above.

**Alpaugh GSA**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Angiola Water District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**City of Porterville**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**County of Tulare**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Deer Creek Storm Water District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Delano-Earlimart Irrigation District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Kern-Tulare Water District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Lower Tule River Irrigation District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Pixley Irrigation District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Porterville Irrigation District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Saucelito Irrigation District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Tea Pot Dome Water District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Terra Bella Irrigation District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Vandalia Water District**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Acknowledgment by Deer Creek and Tule River Authority**

DCTRA acknowledges that it has been requested to serve as Contracting Agent for the Tule Subbasin MOU Group, obtained required approval to serve as the Contracting Agent by its Board of Directors, reviewed this document and is hereby acknowledging that it agrees to serve as the Contracting Agent for the MOU Group.

**Deer Creek and Tule River Authority**

By: \_\_\_\_\_

Date: \_\_\_\_\_



## CITY COUNCIL AGENDA – MARCH 7, 2017

**SUBJECT:** A Resolution Approving the Application for State Off-Highway Vehicle Grant Funds

**SOURCE:** Parks and Leisure Services

**COMMENT:** Staff has prepared a State Off-Highway Vehicle Grant application for the 2016-2017 grant cycle. The process entails an on-line preliminary application and the ability for the public to review and comment on the preliminary application from March 7 through April 3, 2017. Preliminary application review and comment is conducted on the State OHV website allowing the public the ability to participate. In addition, State OHV personnel review the preliminary application and provide comments on its completeness and accuracy. Staff is then given the opportunity to revise the preliminary application, only for purposes of responding to public and State comments, prior to confirming the submission of a final application.

The preliminary Ground Operations application is \$143,016, of which \$105,832 is the grant request amount and \$37,184 would come from a local match. The Ground Operations activity is for the annual ongoing maintenance and operational enterprise including contractual services, equipment, materials and supplies. As the Council is aware, without grant-funding support this current fiscal year, the track has been open on a modified schedule at an expense of approximately \$75,000.

The Ground Operations activities are for one year commencing July 2017. The local match for the proposed grant is comprised of volunteer efforts, administrative services, and the general fund. The final application submission must be made by May 1, 2017, and results of the competitive scoring will be known by June 5, 2017.

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

**ATTACHMENTS:** 1. OHV Grant Resolution

**Appropriated/Funded:**

**Review By:**

Department Director:

Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
APPROVING THE APPLICATION FOR THE STATE OF CALIFORNIA,  
DEPARTMENT OF PARKS AND RECREATION, OFF-HIGHWAY VEHICLE GRANT  
FUNDS**

WHEREAS, The people of the State of California have enacted the Off-Highway Motor Vehicle Recreation Act of 2003, which provides funds to the State of California and its political subdivisions for Operation and Maintenance, Restoration, Law Enforcement, Education and Safety for off-highway vehicle recreation; and

WHEREAS, the Off-Highway Motor Vehicle Recreation Division with the California Department of Parks and Recreation has been delegated the responsibility to administer the program; and

WHEREAS, procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application to apply for Off-Highway Motor Vehicle Grant funds; and

WHEREAS, this Project appears on, or is in conformance with, this jurisdiction's adopted general or master plan and is compatible with the land use plans of those jurisdictions immediately surrounding the Project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville hereby:

1. Approves the filing of an Application(s) for an Off-Highway Vehicle Grant or Cooperative Agreement; and
2. Certifies that this agency understands its legal obligations to the State upon approval of the Grant; and
3. Certifies that this agency understands the California Public Resources Code requirement that Acquisition and Development Projects be maintained to specific conservation standards; and
4. Certifies that the Project will be well-maintained during its useful life; and
5. Certifies that this agency will implement the Project with diligence once funds are available and the Applicant has reviewed, understands, and agrees with the Project Agreement; and
6. Certifies that this agency will provide the required matching funds; and
7. Certifies that the public and adjacent property owners have been notified of this Project (as applicable); and
8. Appoints the Director of Parks & Leisure Services as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, amendments, payment requests and so on, which may be necessary for completion of the Project.

Passed, approved and adopted this 7th day of March, 2017.

By: \_\_\_\_\_  
Milt Stowe, Mayor



Attest:

John D. Lollis, City Clerk

---

Patrice Hildreth, Chief Deputy City Clerk



## CITY COUNCIL AGENDA – MARCH 7, 2017

**SUBJECT:** Intent to Set a Public Hearing for Adjustment of Zalud House Museum Fees

**SOURCE:** Parks and Leisure Services

**COMMENT:** Built in 1891 and occupied only by its original owners, the Zalud House offers a nostalgic glimpse into the past. It is one of a few houses of that era that has not undergone any remodeling and one of the few museums in the nation that is furnished entirely with the original owners' possessions. On May 1, 1977, the house was officially opened as a museum to preserve the legacy of the family and the early history of Porterville Pioneers.

Beginning in 2010, in addition to taking a regular tour of the Zalud House, the public could schedule a paranormal tour. This new type of tour was approved by City Council that year as an additional revenue generator. The Zalud House Curator, Ms. Heather Huerta, has conducted these paranormal tours since its inception.

There are three types of paranormal requests that are fielded by staff. The first are individuals that do not own investigative equipment who are interested in a tour led by Ms. Huerta. Second, there are amateur paranormal groups with equipment interested in conducting their own investigation. Lastly, there are professional groups interested in conducting an investigation.

At its meeting on January 17, 2017, the City Council directed staff to bring back an item regarding current fees at the Zalud House. It suggested by the Council that increasing the fees and/or requiring a deposit may encourage the public to be more careful and respectful of the museum during tours/investigations. Fees from eight museums throughout the state that offer paranormal tours/investigations were evaluated by the Parks and Leisure Services Commission at their February 2, 2017, meeting. The Parks and Leisure Services Commission agreed with staff and the Curator in making the following fee structure recommendation to City Council:

- \$20 per adult for a 2-hour paranormal tour (\$25 for a 4-hour tour currently)
- \$50 per adult for a 4-hour paranormal investigation (\$40 currently)
- Any professional investigation request will be negotiated. City staff will be present for all tours/investigations.

Admission fees for regular Zalud House tours have been the same for over 15 years. The Commission and the Curator also made the following recommendation:

- \$1 per child regular tour admission (\$.50 currently)
- \$3 per adult regular tour admission (\$2 currently)

Currently, the admission fees for the Porterville Museum are \$1 per child and \$5 per adult.

RECOMMENDATION: That the City Council set a Public Hearing for March 21, 2017, to allow for public comments and to consider adjusting Zalud House Museum fees.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:

Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager



## CITY COUNCIL AGENDA – MARCH 7, 2017

**SUBJECT:** Authorization to Adjust Animal Control Adoption Fees

**SOURCE:** Police

**COMMENT:** At its meeting on February 21, the City Council considered discounting Animal Control Adoption Fees for special adoption events and other programs as a means of encouraging and increasing adoptions of animals in the care of the City of Porterville Animal Control Facility. City Council members were favorable to the adjustment of Animal Shelter Adoption Fees. However, because these fees had been previously established through resolution by the City Council in May 2009, it was determined by the City Attorney that Council Action is required to authorize adjustment of Animal Control Adoption Fees. In addition, due to the reduction of an existing fee is proposed as opposed to the establishment of a new fee, a Public Hearing is not required.

Because Council action is required to authorize adjustment of Animal Control Adoption Fees, the first option available is to identify special adoption events and other programs in advance and individually seek Council authorization for fee adjustments for each event. This option could potentially be problematic, as some events are not known or planned for far enough in advance to obtain such Council authorization and therefore, these events would not qualify for fee adjustments.

The second option available is for Council to authorize the Chief of Police to adjust Animal Control Adoption Fees at the Chief's discretion when Animal Control Shelter staff have identified an adoption event or other community event at which they believe an adjustment of the adoption fees will encourage more adoptions of animals in the care of the Animal Control Facility. This option is more favorable to staff as it will decrease the potential of not being able to provide this service at events or promotions not identified in time to present a further action item to Council for approval.

**RECOMMENDATION:** That the City Council:

1. Adopt resolution that authorizes the Animal Control Adoption Fees be periodically adjusted for special adoption events and other promotions coordinated by City of Porterville Animal

Control Shelter personnel and authorizes the Chief of Police to identify and enact the time periods and amount of reductions.

ATTACHMENTS: 1. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:

Eric Kroutil, Police Chief

Final Approver: John Lollis, City Manager

RESOLUTION NO. \_\_\_\_-2017

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF PORTERVILLE ALLOWING FOR PERIODIC DISCOUNTED FEE  
FOR ANIMAL CONTROL SHELTER ADOPTIONS

WHEREAS, on May 6, 2009, the City Council adopted various fees for animal control services and sheltering as necessary to effectively carry out shelter operations, including an adoption fee; and

WHEREAS, the City Council believes that the occasional reduction of the adoption fee for certain community events and/or promotions will increase the numbers of animals adopted out from the shelter; and

WHEREAS, the City Council understands that often times swift action is necessary to participate in these community events and/or promotions to further the mission of adopting animals out of the shelter, and thereby recognizes the need for staff to have the ability to periodically reduce the shelter's adoption fees.

THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Porterville that the City Council:

1. Hereby authorizes the periodic reduction of animal control adoption fees; and
2. Authorizes the Police Chief to identify and enact the time periods and amounts of reductions.

PASSED, APPROVED, AND ADOPTED this 7<sup>th</sup> day of March, 2017.

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Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

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By: Patrice Hildreth, Chief Deputy City Clerk



## CITY COUNCIL AGENDA – MARCH 7, 2017

**SUBJECT:** Approval for Community Civic Event - Optimist Club - Porterville Unified School District - Burton School District - Porterville Celebrates Reading - April 8, 2017

**SOURCE:** Finance

**COMMENT:** Porterville Unified School District, Porterville Optimist Club and Burton School District are requesting approval for their annual literacy fair, Porterville Celebrates Reading, on April 8, 2017, at Veteran's Park, from 10:00 a.m. to 2:00 p.m. This annual event includes free books and small group presentations for children and parents in order to encourage literacy development.

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 departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit A.

**RECOMMENDATION:** That the City Council approve the attached Community Civic Event Application and Agreement submitted by the Porterville Unified School District, Porterville Optimist Club and Burton School District, subject to the stated requirements contained in the Application, Agreement and Exhibit A.

**ATTACHMENTS:** 1. Community Civic Event Application and Agreement, Exhibit A, Map, Outside Amplifier Permit.

**Appropriated/Funded:**

**Review By:**

Department Director:

Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager



# CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257  
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

## APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? Website?  
Application date: 2/7/17 Event date: 4/8/17  
Event time: 10:00 a.m. - 2:00 pm  
Name of Event: Porterville Celebrates Reading

Sponsoring organization: Optimist/PUSD/BSD Phone # 793-2400  
Address: PUSD - 600 W. Grand Ave.  
Authorized representative: Dr. Ken Gibbs Phone # 793-2400  
Address: 600 W. Grand Ave., Porterville  
Event chairperson: Catherine May Phone # cell 788-9053

Location of event Veteran's Park  
(Location map must be attached)

Type of event: Literacy fair for children ages pre-school-up  
Schools and community organizations have booths with literacy activities.  
Non-profit organization status: 94-2676266 Optimist BL#2618

(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 \_\_\_\_\_ No ☒  
Other: \_\_\_\_\_

Parks facility application required: Yes ☒ No \_\_\_\_\_ Attached \_\_\_\_\_  
Assembly permit required: Yes \_\_\_\_\_ No ☒ Attached \_\_\_\_\_

STAFF COMMENTS (list special requirements or conditions for event):

Appr. Deny

|       |       |                   |       |
|-------|-------|-------------------|-------|
| _____ | _____ | Bus. Lic. Spvr.   | _____ |
| _____ | _____ | Pub. Works Dir.   | _____ |
| _____ | _____ | Comm. Dev. Dir.   | _____ |
| _____ | _____ | Field Svcs. Mgr.  | _____ |
| _____ | _____ | Fire Chief        | _____ |
| _____ | _____ | Parks Dir.        | _____ |
| _____ | _____ | Police Chief      | _____ |
| _____ | _____ | Admin. Svcs. Dir. | _____ |

# CITY OF PORTERVILLE

## APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

### ***What constitutes a Community Civic Event?***

A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted NO LESS THAN 30 DAYS PRIOR to the date of the event in order to obtain City Council approval.

**All City Code requirements** are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at [www.ci.porterville.ca.us/govt/CityClerk/](http://www.ci.porterville.ca.us/govt/CityClerk/), Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

**Liability insurance:** The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. **The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured.** A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. **This original certificate and endorsement shall be submitted to the Finance Department prior to the City of Porterville Council's approval.** The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)

\_\_\_\_\_  
Authorized Representative 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 to 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](http://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.

|                        |                  |        |
|------------------------|------------------|--------|
| Optimist / PUSD / BSD  | Catherine E. May | 2/7/17 |
| (Name of Organization) | (Signature)      | (Date) |

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Location: Veteran's Park Event date: 4/8/17 Event time: 10:00am - 2:00pm

[illegible]

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

# CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE  
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER  
ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Celebrates Reading

Sponsoring organization: Optimist / PUSD / BSD

Event date: April 8, 2017 Hours: 10:00 a.m - 2:00 p.m.

**ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:**

| Closed                         |                 |                 |                 |
|--------------------------------|-----------------|-----------------|-----------------|
| <u>Street Name</u>             | <u>From</u>     | <u>To</u>       | <u>Activity</u> |
|                                |                 |                 |                 |
|                                |                 |                 |                 |
|                                |                 |                 |                 |
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|                                |                 |                 |                 |
|                                |                 |                 |                 |
| <u>Sidewalks</u>               | <u>From</u>     | <u>To</u>       | <u>Activity</u> |
|                                |                 |                 |                 |
|                                |                 |                 |                 |
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|                                |                 |                 |                 |
|                                |                 |                 |                 |
|                                |                 |                 |                 |
| <u>Parking lots and spaces</u> | <u>Location</u> | <u>Activity</u> |                 |
|                                |                 |                 |                 |
|                                |                 |                 |                 |
|                                |                 |                 |                 |
|                                |                 |                 |                 |

Requirements for Community Civic Event  
Porterville Optimist Club, Porterville Unified School District  
And Burton School District  
Porterville Celebrates Reading  
April 8, 2017

Finance Director:  
*M. Bemis*

City Engineer, Acting: *J. Sanchez*      Some areas will likely be under construction  
and will be fenced off to ensure public safety.

Community Development Manager: *J. Phillips*      No comments.

Field Services Manager, Acting: *M. Knight*      No comments.

Battalion Chief of Operations: *G. Hall*      No comments.

Parks and Leisure Services Director: *D. Moore*      Vehicles in the park for loading/unloading  
purpose only. If construction is still in progress,  
it should not affect the event, as it will be  
fenced off thoughtfully.

Police Lieutenant: *C. Contreras*      No comments.

Administrative Services Director: *P. Hildreth*      Please see Exhibit A, page 2.

## Requirements for Community Civic Event

Sponsor: Porterville Unified School District, Porterville Optimist Club  
and Burton School District  
Event: Porterville Celebrates Reading  
Event Chairman: Catherine May  
Location: Veterans Park  
Date of Event: April 8, 2017  
Time of Event: 10:00 a.m. to 2:00 p.m.

### RISK MANAGEMENT: Conditions of Approval

That the Porterville Unified School District, Porterville Optimist Club or Burton School District provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event.

- A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A:VII, and the insurance company must be an "admitted" insurer in the State of California.

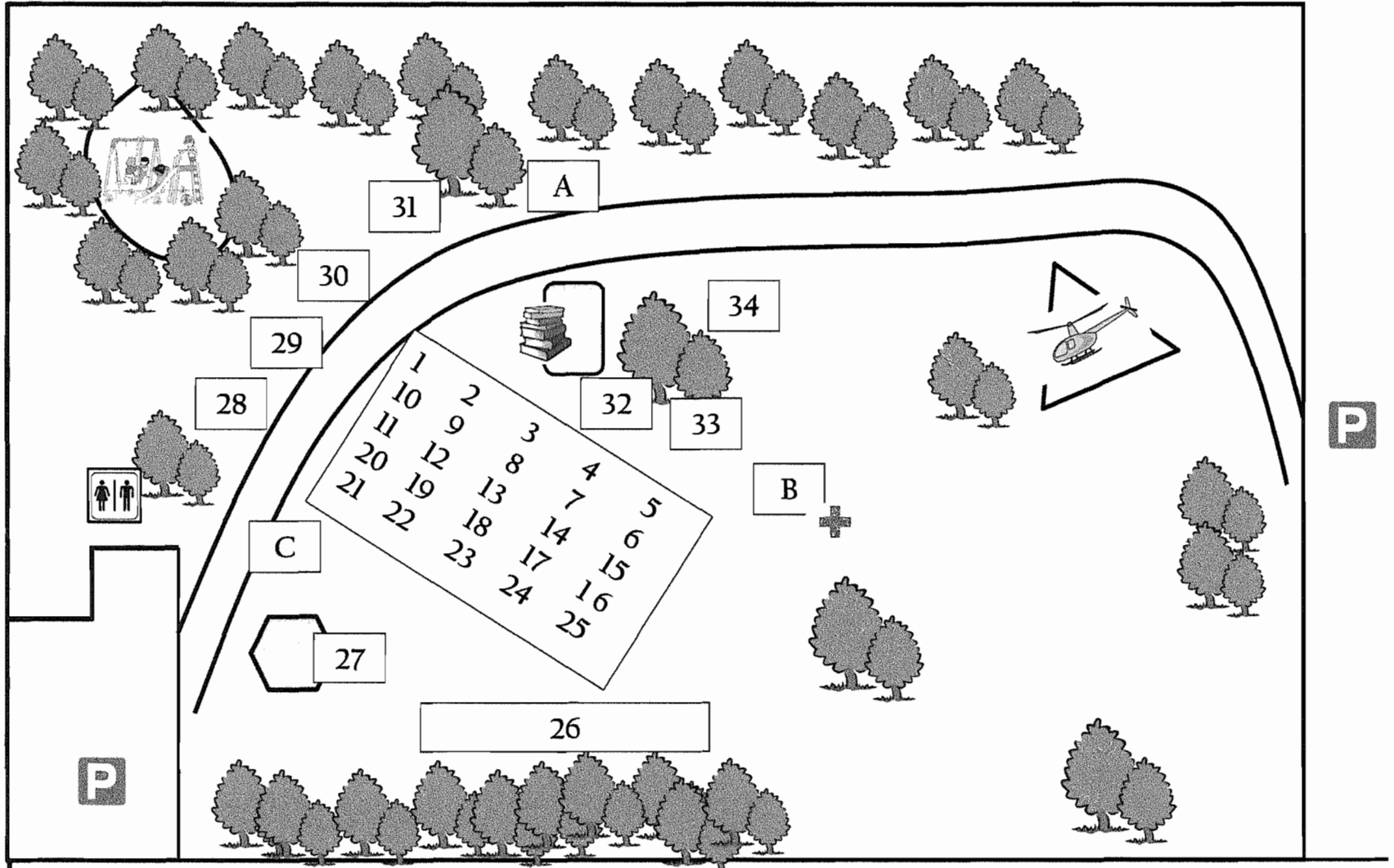


Monache H.S.



Henderson Ave.

Newcomb St.

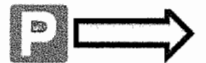


Porterville Celebrates  
Reading Map

+ First Aid Kit

# Booths

Target



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: Catherine May  
770 Phillips Circle, Porterville, CA 93257
- 2 Address where amplification equipment is to be used: Veteran's Park
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Catherine May
- 4 Type of event for which amplification equipment will be used: Literacy Fair
- 5 Dates and hours of operation of amplification equipment: 4/8/17 10:00.am to 2:00p.m.
- 6 A general description of the sound amplifying equipment to be used: PA system

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

Catherine E. May  
Signature of Applicant

2/7/17  
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

[Signature]  
City of Porterville, Chief of Police/Designee

2-24-17  
Date





## CITY COUNCIL AGENDA – MARCH 7, 2017

SUBJECT: Proposition 64 Study Session

SOURCE: City Attorney

COMMENT: The purpose of this study session is for the City Council to review the Adult Use of Marijuana Act ("AUMA") and the portions of the new State law that allow additional local control, and to provide direction to staff concerning those areas of local control.

As the City Council is aware, in November 2016, the California voters passed Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act, or "AUMA." The AUMA legalizes the non-medical use of marijuana by persons 21 years of age or older and allows the personal cultivation of up to six plants. The Act also creates a State regulatory and licensing system governing the commercial cultivation, testing, distribution, and manufacturing of non-medical marijuana and marijuana products. Much (but not all) of the system mirrors the State laws now in place for medical marijuana (per "MMRSA").

The City currently has regulations in place that regulate medical marijuana cultivation which had been applied to the cultivation of medical marijuana prior to the passage of Proposition 64 (Chapter 21, Section 301.23 of the Porterville Municipal Code). Now that Proposition 64 has passed, the staff recommends that the Council consider changes to the City's regulations.

The following is background information concerning the AUMA, the City's current regulations, and the issue concerning conflicts between State and Federal law, as well as a summary of the concerns/recommendations from various City departments.

### **THE AUMA**

Upon the passage by the voters, certain portions of Prop. 64 went into effect immediately. This means that the personal cultivation and use provisions took effect on November 9, 2016. Individuals may cultivate up to six living marijuana plants indoors – either inside the private residence or a fully enclosed greenhouse or structure that is secure and not visible from a public space – unless a City enacts regulations imposing a reasonable regulatory scheme that would preclude this activity until the individual complies with the City's regulations. A private residence includes a house, apartment unit, mobile home, or other dwelling unit. Bans by cities on this activity are no longer permitted.

However, the City may regulate or ban all outdoor personal cultivation (at least until the California Attorney General makes a determination that non-medical use of marijuana is legal under Federal law).

With regard to use of marijuana, the AUMA prohibits the smoking of marijuana in any public place **except where a local jurisdiction has authorized use on the premises of a retailer or microbusiness as authorized by law.** Smoking of marijuana is further prohibited anywhere smoking tobacco is prohibited; within 1,000 feet of a school, day care, or youth center while children are present; and while driving or riding in the passenger seat of any vehicle. There are also restrictions on possession, and Cities may prohibit possession and smoking in buildings owned, leased, or occupied by the City. Cities may also maintain a drug and alcohol free workplace by prohibiting the use, consumption, possession, transfer, transportation, sale, display, or growth of marijuana in the workplace. All this stated, individuals may possess, process, purchase, or give away to persons 21 years or older marijuana (within the statutory limits) and these activities cannot be prohibited under local law.

Concerning local control of commercial non-medical marijuana businesses, the AUMA sets up a comprehensive state regulatory system that covers the industry from “seed to sale,” and all non-medical businesses will be required to have a state license. These activities will not be authorized/permitted under the new law until the State licensing process is in place – and this is estimated to occur late in 2017. **The AUMA does not limit the authority of a City to adopt regulations that restrict or completely prohibit these businesses – if a City wishes to do so it should prior to the implementation of the State system.**

State licenses cannot be issued to an applicant whose operations would violate local regulations, but the applicant is not required to provide evidence of a local license or permit to the State.

Local authorities will be responsible for enforcing any local regulations and can also enforce State regulations if that power has been delegated by the State.

Concerning the taxation of non-medical marijuana, the AUMA adds a State excise tax of 15% on the privilege of purchasing non-medical marijuana at retail, effective January 1, 2018, and also adds a tax of \$9.25/dry weight oz. (flowers) and \$2.75/dry weight oz. (leaves) on the privilege of commercial cultivation. A limited portion of these funds will be available for local grants, but a City that bans cultivation (including outside personal cultivation), or the retail sale of marijuana, will not be eligible for those grants. Local governments are not precluded from imposing additional taxes, and the most common local excise tax imposed is a business license tax on dispensing, manufacturing, commercially cultivating, and commercially transporting. There are currently 55 cities with local marijuana taxes, with 37 of those having just been authorized in the November 2016 election. A City can also adopt a local transactions and use tax, if it has not already exceeded its limits per State law on this tax.

## **CITY REGULATION OF MEDICAL MARIJUANA**

The City's regulations currently allow a qualified patient to cultivate medical marijuana, if the patient meets the qualification and is able to obtain a cultivation permit. If permitted, up to 12 plants (with no more than 12 plants cultivated outside or within an accessory structure) are allowed. There are additional restrictions as well – for instance cultivation sites are prohibited within 100 feet of a sensitive use and are not permitted in mobile homes or multi-family developments. Qualified patients are also allowed to prepare for personal use the cannabis cultivated on the property provided that the delineated conditions are met (e.g. area of preparation secured and locked, use of gas products prohibited).

Commercial marijuana processing or distribution facilities are currently prohibited, and delivery from such facilities outside the city limits is expressly prohibited.

The City's current medical marijuana regulations are attached as Attachment 1.

## **CONFLICTS BETWEEN FEDERAL AND STATE LAW**

Federal and State law conflict concerning the legality of marijuana. Under federal law the use, possession, and cultivation of marijuana is unlawful.

Notwithstanding this conflict, in the past federal authorities have been disinclined to intervene in states where the use of marijuana has been legalized.

The federal authorities' stance may shift given the recent change in administration. Recently, the White House Press Secretary stated that he believed we'd see greater enforcement of recreational marijuana, and noted a distinction between medical and recreational marijuana. However cannabis proponents are quick to point out that the President, while on the campaign trail, stated that he'd leave the matter of recreational marijuana to the States. In summary, the only current conclusion that can be drawn is that it is uncertain what federal authorities may do.

## **CONCERNS/RECOMMENDATIONS**

### **Noncommercial Regulations**

**Public Safety:** Per the City Police Department, Marijuana enforcement dominated the Porterville Police Department's Narcotics Investigations Unit's (NIU) time during 2016, especially from April through October. By the end of April, NIU had surpassed previous marijuana seizures from 2013-2015. The majority of the time detectives accompanied Code Enforcement on marijuana compliance checks. By the end of 2016 approximately **142** properties were reported as cultivating marijuana, however **11** were never checked (due to time restraints and other issues). Of the **131** that were checked **20** were found to not be cultivating marijuana, leaving **111** that were cultivating. Of those properties cultivating marijuana, approximately 70% were deemed criminal and eradicated, an increase of about 60% over last year. Detectives also seized 6 Butane Honey Oil (BHO) labs, twice as many as last year. Several of these

eradication cases resulted in other drug charges. With the passage of Proposition 64, this law also allowed for prior arrests to be vacated and significantly impacted several cases previously completed by NIU detectives.

Marijuana seized (approximate):

237,799 grams (524 lbs) of Marijuana (49,111 grams in 2015)

6110 Marijuana Plants seized (1131 in 2015)

181 grams of Concentrated Cannabis (41 in 2015)

The Police Department has suggested that the City Council consider allowing a maximum of 6 plants be cultivated (consistent with Prop.64), regardless of whether the purpose is medical or recreational, and consistent with AUMA, that the cultivation only be allowed indoors. The police also recommend that no registration be required for said use. This would help cut back on the tremendous amount of hours spent by law enforcement concerning medical marijuana related issues. There are also legal concerns with police involvement in code enforcement compliance and inspections due to the conflict between State and Federal law.

**Land Use:** Community Development and Public Works staff also expressed a desire to see the current medical marijuana cultivation and preparation regulations reconciled with the Prop. 64 requirements. Limiting personal cultivation to what is allowed under the new law, and only allowing indoors would streamline the City's regulations. Furthermore, the more extensive permitting process set up for medical marijuana cultivation would no longer be needed. If the City Council wishes to consider cultivation of more than six plants (and/or allowing outdoor cultivation), the Council should review the current permit process to see if it should remain in place or be revised.

### **Commercial Activities**

**Public Safety:** Given the current uncertainties as to the federal authorities' position on enforcement, the Police Department recommends the Council consider prohibiting commercial activities, at least for the time being, and at least with regard to commercial activities related to recreational marijuana. If the City Council is inclined to permit and regulate certain activities, additional staffing may be necessary depending on the activities allowed. Police would suggest that commercial cultivation only be allowed indoors. Specific types of product manufacturing should be prohibited such as oils. The Police and Fire Departments note that in-person security and monitoring be required 24/7. The Public Safety Departments also suggested that the City consider only allowing smaller scale commercial operations.

**Land Use:** Community Development and Public Works reiterate Public Safety's position that additional staffing may be necessary if commercial activities are permitted. The City Council would need to consider what commercial activities to allow, whether they be allowed for medical or recreational marijuana (or both), where to allow such uses, whether to allow such uses by permit (CUP) or right, and under what conditions.

Community Development Staff will be providing additional information, including location maps showing possible areas to consider and avoid in locating businesses. Staff also suggested that if the Council wishes to consider such activities, that they be permitted on a smaller scale. It should be noted that any current commercial crop cultivation is prohibited from using city water – that position should remain consistent with regard to commercial marijuana cultivation, and that this could be difficult to enforce on indoor cultivation in an existing building as recommended by Police.

**Other:** If the City Council wishes to consider allowing commercial activities, it may also wish to consider imposing a local tax, which is permitted on recreational activities, and to a more limited extent on commercial medical activities. There may also be additional concerns, such as whether the City can regulate where the cultivated product comes from (regarding dispensary or processing operations). This City Attorney is currently reviewing the approaches of various cities throughout California concerning the permitting, regulating, and taxing of commercial marijuana activities, and this information is attached as Attachment 2.

RECOMMENDATION: That the City Council review the information and provide direction to staff.

ATTACHMENTS:

1. Section 301.23 of Chapter 21, Porterville Municipal Code
2. Regulatory Status of Commercial Activities in Nearby Jurisdictions
3. Proposition 64 Text

Appropriated/Funded:

Review By:

Department Director:

Final Approver: Luisa Zavala, Deputy City Clerk

### **301.23 Medical Cannabis Cultivation**

#### **(a) Purpose and Intent**

- (1) The City Council of the City of Porterville, based on evidence presented to it in the proceedings leading to the adoption of this chapter, hereby finds that the cultivation, preparation, and distribution of medical cannabis in the city has caused and is causing ongoing impacts to the community. These impacts are intensified by the activities of those who are abusing the current State statutory provisions for the cultivation, processing and distribution of cannabis for nonmedical, improper and illegal purposes. These impacts include increases in various types of crime due to outdoor grows, damage to buildings containing indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and related crimes. Many of these impacts have fallen disproportionately on residential neighborhoods, but nonetheless also negatively impact properties in the commercial districts. These impacts have also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.
- (2) The City Council also acknowledges that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of medical cannabis for medical purposes under the Compassionate Use Act, but that the Compassionate Use Act does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the city.
- (3) The purpose and intent of this chapter is to regulate the cultivation, preparation and distribution of medical cannabis in a manner that protects the public health, safety, and welfare of the community and mitigates for the cost to the community of the oversight of these activities.

#### **(b) Interpretation and Applicability**

- (1) No part of this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state, federal law, statute, rule or regulation. The cultivation, preparation, and distribution of medical cannabis in the city is controlled by the provisions of this chapter of the Porterville Development Ordinance.
- (2) Nothing in this chapter is intended to, nor shall it be construed to, preclude a landlord from limiting or prohibiting cannabis cultivation, smoking or other related activities by tenants.
- (3) Nothing in this chapter is intended to, nor shall it be construed to, burden any defense to criminal prosecution otherwise afforded by California law.
- (4) Nothing in this chapter is intended to, nor shall it be construed to, exempt any cannabis related activity from any and all applicable local and state construction, electrical,

plumbing, land use, or any other building or land use standards or permitting requirements.

- (5) Nothing in this chapter is intended to, nor shall it be construed to, make legal any cultivation, transportation, sale or other use of cannabis that is otherwise prohibited under California law.
  - (6) All cultivation, preparation and distribution of medical cannabis within city limits shall be subject to the provisions of this chapter and other applicable provisions of this Code, regardless of whether cultivation, preparation, or distribution existed or occurred prior to adoption of this chapter.
- (c) **Definitions:** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
- (1) ***Accessory Structure.*** A residential accessory structure shall include any uses that are customarily related to a residence, including garages, greenhouses, storage sheds, studios, and workshops. Any accessory structure must be compliant with Section 301.01 and any other applicable provisions of the Municipal Code.
  - (2) ***Dwelling Unit.*** A room or suite of rooms including one (1) and only one (1) kitchen, and designed or occupied as separate living quarters for one (1) family.
  - (3) ***Medical Cannabis*** (also known as medical marijuana). Cannabis, including constituents of cannabis, THC and other cannabinoids, used as a physician-recommended form of medicine or herbal therapy.
  - (4) ***Medical Cannabis Cooperative or Collective.*** Any person, association, cooperative, affiliation, or collective of persons who provide education, referral, or network services, and/or facilitation or assistance in the cultivation, preparation or distribution of medical cannabis.
  - (5) ***Medical Cannabis Cultivation Area.*** The area allowed for the growing and preparation of medical cannabis.
  - (6) ***Medical Cannabis Cultivation Facility.*** A facility at which medical cannabis is grown and harvested for supply to a medical cannabis preparation facility and/or a medical cannabis distribution facility.
  - (7) ***Medical Cannabis Distribution.*** The supply to a qualified patient by any person, including a primary caregiver, cooperative or collective, of medical cannabis that is not grown in the qualified patient's residence.
  - (8) ***Medical Cannabis Distribution Facility/Dispensary.*** Any facility or location where the primary purpose is to distribute medical cannabis as a medication upon recommendation by a physician and where medical cannabis is made available to or distributed by or to a primary caregiver or a qualified patient in strict accordance with the Compassionate Use Act of 1996 (Cal. Health and Safety Code §§ 11362.5 et seq.).
  - (9) ***Medical Cannabis Preparation.*** Includes, but is not limited to: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, rolling.

- (10) ***Medical Cannabis Preparation Facility.*** A facility at which medical cannabis is processed for supply to a medical cannabis distribution facility.
- (11) ***Qualified Patient.*** As defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.
- (12) ***Residence.*** A legal dwelling unit.
- (d) **Severability:** If any part of this chapter is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.
- (e) **Cultivation Generally:** A qualified patient shall be allowed to cultivate medical cannabis for their own personal use. Cultivation of medical cannabis for said use shall be in conformance with the following standards:
  - (1) No more than one medical cannabis cultivation area shall be permitted on a legal parcel, regardless of the number of dwelling units on the parcel;
  - (2) No medical cannabis cultivation site shall be located within 100 feet of a sensitive use “use, sensitive” as defined in Chapter 700;
  - (3) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Medical cannabis cultivation shall remain at all times accessory to the residential use of the property;
  - (4) The qualified patient shall reside at the residence where the medical cannabis cultivation occurs. This shall be confirmed through the application process by comparing the addresses on the patient’s identification (for example, a California issued Driver’s License) and the patient’s recommendation card;
  - (5) Cultivation of medical cannabis for personal use shall occur only on the parcel occupied by a qualified patient and shall be for the exclusive use of the qualified patient and otherwise in conformance with this chapter (i.e. no collectives or cooperatives);
  - (6) Cultivation of medical cannabis for personal use shall not displace required off-street parking, or violate any other provisions of the Porterville Municipal Code;
  - (7) Qualified patients shall have no more than the number of plants the patient is permitted under State law to have, provided that in no case shall any parcel/dwelling have more than 12 plants; with not more than 12 cultivated outdoors and/or within an Accessory Structure;
  - (8) The use of gas products (e.g., CO2, butane, etc.) for medical cannabis cultivation is prohibited;
  - (9) There shall be no exterior evidence of medical cannabis cultivation occurring at the property, from a public right-of-way;
  - (10) Medical cannabis cultivation is prohibited as a home occupation;
  - (11) No distribution of medical cannabis cultivated for personal use shall be allowed other than as otherwise authorized by this Code;
  - (12) Medical cannabis cultivation shall be an accessory use to a primary residential use on a property within the RS-1 and RS-2 zones, or at a single-family residence within the



RM-1, RM-2 or RM-3 zones;

- (13) Medical cannabis cultivation is not allowed in multi-family developments or in mobile home parks. However, where a property within a residential zone district is developed with two single-family residential detached units, could be legally subdivided as developed, both residences have separate utilities, and a fence separates the residences, one of the two residences may apply for a permit, subject to Zoning Administrator approval and conditions as deemed necessary for each unique situation;
- (14) The cultivation of medical cannabis shall not adversely affect the health or safety of the residents of the property on which it is cultivated, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes pursuant to the standards contained in Chapter 306 Performance Standards of this Code;
- (15) Medical cannabis cultivation lighting shall not exceed 1,200 watts;
- (16) The accessory structure(s) shall at all times meet the requirements of the latest adopted version of the California Building, Fire, Mechanical, Electrical and Plumbing Codes (collectively California Codes);
- (17) All electrical equipment used in the cultivation of medical cannabis, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired and permits obtained pursuant to the California Building, Electrical, Mechanical, Plumbing or other state or local laws rules and regulations;
- (18) Prior to performing any work on electrical wiring/rewiring the applicant shall first obtain a building, mechanical and/or electrical permit from the Building Division;
- (19) If required by California Building or Fire Code, the wall(s) adjacent to the cultivation area shall be constructed with 5/8-inch Type X moisture-resistant drywall;
- (20) The growing of medical cannabis outdoors shall comply with the setback requirements for the primary residence on the property subject to the zoning classification of the property;
- (21) Medical Cannabis plants shall be grown in an area enclosed with a solid view obscuring fence, secured with self-closing and locking gates, and shall not exceed a maximum height of five (5) feet for properties with a six (6) foot tall fence. In the alternative, plants may grow to a maximum height of seven (7) feet if the area is fenced and screened to eight (8) feet in compliance with applicable Development Ordinance and California Building Code standards; and
- (22) Areas for cultivation of medical cannabis shall be secured, locked, and fully enclosed and rendered inaccessible to minors.

(f) **Preparation**

A qualified patient shall be allowed to prepare for personal use medical cannabis cultivated on the property or within his or her private residence or accessory structure. Preparation of medical cannabis cultivated at the residence shall be in conformance with the following standards:

- (1) Only medical cannabis cultivated at the residence in conformance with this chapter shall be allowed to be prepared for use at the residence;

- (2) The primary use of a dwelling unit shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Medical cannabis preparation shall remain at all times accessory to the residential use of the property;
  - (3) The medical cannabis preparation shall be in compliance with the current adopted edition of the California Codes;
  - (4) The use of gas products (e.g., CO<sub>2</sub>, butane, etc.) for medical cannabis preparation is prohibited;
  - (5) The preparation of medical cannabis shall not adversely affect the health or safety of the residents, residence or accessory building in which it is processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes pursuant to the standards contained in Chapter 306 Performance Standards of this Code; and
  - (6) Cultivation of medical cannabis for personal use shall not displace required off-street parking, or violate any other provisions of the Porterville Municipal Code.
  - (7) Areas for preparation of medical cannabis shall be secured, locked, and fully enclosed and rendered inaccessible to minors.
- (g) Medical cannabis preparation is prohibited as a home occupation.
- (h) No sale or distributing of medical cannabis processed for personal use shall be allowed.
- (i) ***Individual Distribution Prohibited.*** Medical cannabis cultivated or processed for personal use as provided for in this chapter shall not be distributed to any person, cooperative or collective, unless as otherwise proscribed by this Article.
- (j) ***Cultivation Permit:***
- (1) Prior to commencing any medical cannabis cultivation, the person(s) owning, leasing, occupying, or having charge or possession of any legal parcel or premises where medical cannabis cultivation is proposed to occur must obtain a medical cannabis cultivation permit from the Community Development Director or his or her designee. The following information will be required with the initial permit application and subsequent permit extensions:
    - a. A notarized signature from the owner of the property consenting to the cultivation of cannabis at the premises on a form acceptable to the City.
    - b. The name of each person owning, leasing, occupying, or having charge of any legal parcel or premises where medical cannabis will be cultivated.
    - c. The name of each qualified patient or primary caregiver who participates in the medical cannabis cultivation.
    - d. A copy of the a current valid medical recommendation or county-issued medical marijuana card for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver.
    - e. The physical site address of where the marijuana will be cultivated.

- f. A signed consent form, acceptable to the City, authorizing City staff, including the Police Department authority, to conduct an inspection of the cultivation area without notice.
  - g. Proof that the applicant and any resident or person assisting in cultivation has had no drug related felony convictions within the past seven (7) years.
- (2) The initial permit shall be valid for no more than two (2) years and may be extended in increments of two (2) years. Applications will be accepted after January 1 and shall be submitted not later than June 30 of a calendar year.
- (3) To the extent permitted by law, any personal or medical information submitted with a medical cannabis cultivation permit application or permit extension shall be kept confidential and shall only be used for purposes of administering this chapter.
- (4) The Zoning Administrator may, in his or her discretion, deny any application for a medical cannabis cultivation permit, or extension thereof, where he or she finds, based on articulated facts, that the issuance of such permit, or extension thereof, would be detrimental to the public health, safety, or welfare. The Zoning Administrator shall deny any application for a medical cannabis permit, or extension thereof, which does not demonstrate satisfaction of the minimum requirements of this chapter. Failure to comply with requirements twice within a permitting period constitutes grounds for permit revocation and serves as a basis for denial of any new application or extension. In the event a permit holder becomes subject to criminal proceedings related to the cultivation and/or sale of cannabis, the holder's permit shall be suspended until such time as said criminal case is resolved. The denial of any permit application, or permit extension, shall be subject to appeal pursuant to Section 601.11 Appeals.
- (5) The City may establish a fee or fees required to be paid upon filing of any application for permit(s) as provided by this Chapter, which fees shall not exceed the reasonable cost of administering this chapter, including but not limited to review of applications for permits, monitoring and inspections, and enforcement costs. Said fee or fees shall be established by Resolution of the City Council.
- (k) ***Medical Cannabis Cultivation or Distribution Facility/Dispensary.*** Medical cannabis distributing facilities, dispensaries, or services are not a permitted use and are prohibited in any and all zoning designations or districts within the city limits. Further, delivery of medical cannabis from a dispensary, facility, or service outside this jurisdiction into the city limits of Porterville is expressly prohibited.
- (l) ***Enforcement.*** Any violation of this chapter is subject to any and all penalties as prescribed in the Porterville Municipal Code, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. This chapter is adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.
- (m) ***Appeals.*** With the exception of the appeal process set forth in subsection (J)(4) for consideration of applications for permits, any other decisions made by the Zoning

Administrator related to the application and enforcement of this Section including, but not limited to decisions to suspend, revoke or modify a permit, shall be subject to the appeal provisions set forth in Chapter 612 Appeals of the Porterville Development Code.

## **REGULATORY STATUS OF COMMERCIAL ACTIVITIES IN NEARBY LOCAL JURISDICTIONS**

**Visalia:** waiting for 6 months to make a decision; currently regulates medical marijuana, but not recreational

**Fresno:** a ban on commercial business activities has been proposed by a Council Member. The City Council will consider the proposal on March 30<sup>th</sup>

**Clovis:** currently prohibits commercial activities

**Lemoore:** currently prohibits commercial activities

**Tulare:** currently permits and regulates medical marijuana businesses

**Hanford:** currently considering allowing commercial cultivation businesses, with a particular indoor site in mind

**Coalinga:** currently permits commercial marijuana operations, including cultivation and manufacturing. In Nov. 2016 adopted a tax on activities, of \$25/sq.ft. for the first 3000 sq. ft., and \$10/sq. ft. thereafter

**Fresno County:** considering a temporary ban on commercial activities

**Tulare County:** currently prohibits commercial recreation growing for 2 years and also bans other business operations

Enclosed is additional information on statewide local tax measures that appeared on the November 2016 ballot.

Law Offices of

**OLSON****HAGEL &****FISHBURN****LLP**

Lance H. Olson

Deborah B. Caplan

Richard C. Mladich

Richard R. Rios

Bruce J. Hagel  
of counselDiane M. Fishburn  
of counsel

Christopher W. Waddell

Betty Ann Downing

Lacey E. Keys

Emily A. Andrews

Erika M. Boyd

**Northern California**555 Capitol Mall  
Suite 1425  
Sacramento, CA  
95814-4602Tel: (916) 442-2952  
Fax: (916) 442-1280**Southern California**3605 Long Beach Blvd  
Suite 426  
Long Beach, CA  
90807-6010Tel: (562) 427-2100  
Fax: (562) 427-2237

December 7, 2015

**RECEIVED**

DEC 07 2015

**VIA MESSENGER**Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson, Initiative Coordinator

**RE: Submission of Amendment to Statewide Initiative Measure –  
Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103**

Dear Ms. Johansson:

As you know, I serve as counsel for the proponents of the proposed statewide initiative, "Control, Regulate and Tax Adult Use of Marijuana Act." The proponents of the proposed initiative are Dr. Donald Lyman and Mr. Michael Sutton. On their behalf, I am enclosing the following documents:

- The amended text of "Control, Regulate and Tax Adult Use of Marijuana Act"
- A red-line version showing the changes made in the amended text
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

Lance H. Olson  
Olson, Hagel & Fishburn LLP  
555 Capitol Mall, Suite 1425  
Sacramento, CA 95814

Very truly yours,

**OLSON HAGEL & FISHBURN LLP**


LANCE H. OLSON  
LHO:mdm

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**VIA MESSENGER**

December 7, 2016

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On November 2, 2015, the proponents of a proposed statewide initiative titled "Control, Regulate and Tax Adult Use of Marijuana Act" ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Sutton", with a long, sweeping horizontal line extending to the right.

Michael Sutton

**VIA MESSENGER**

December 7, 2016

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

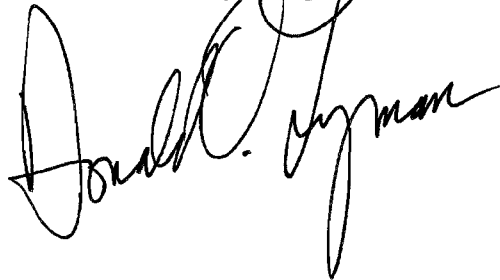
Re: Submission of Amendment to Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

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Sincerely,

Dr. Donald Lyman

A handwritten signature in black ink, appearing to read "Donald Lyman", written over a large, stylized circular flourish.



## **SECTION 1. TITLE.**

This measure shall be known as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

## **SECTION 2. FINDINGS AND DECLARATIONS.**

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be

accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

G. Currently, the courts are clogged with cases of non-violent drug offenses. By legalizing marijuana, the Adult Use of Marijuana Act will alleviate pressure on the courts, but continue to allow prosecutors to charge the most serious marijuana-related offenses as felonies, while reducing the penalties for minor marijuana-related offenses as set forth in the Act.

H. By bringing marijuana into a regulated and legitimate market, the Adult Use of Marijuana Act creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

I. The Adult Use of Marijuana Act creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018. The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. The Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. The State Board of Equalization will collect the special marijuana taxes, and the Controller will allocate the revenue to administer the new law and provide the funds to critical investments.

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

### **SECTION 3. PURPOSE AND INTENT.**

The purpose of the Adult Use of Marijuana Act is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana. It is the intent of the People in enacting this Act to accomplish the following:

- (a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.
- (b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.
- (c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.
- (d) Allow local governments to ban nonmedical marijuana businesses as set forth in this Act.
- (e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.
- (f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.
- (g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.
- (h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.
- (i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.
- (j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.
- (k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this Act.

- (l) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this Act.
- (m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local laws, and only to ban outdoor cultivation as set forth in this Act.
- (n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.
- (o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K-12 schools and other areas where children are present.
- (p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.
- (q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.
- (r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.
- (s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.
- (t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.
- (u) Prevent illegal production or distribution of marijuana.
- (v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.
- (w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.
- (x) Reduce barriers to entry into the legal, regulated market.
- (y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.
- (z) Authorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the Act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this Act.

(aa) Allow industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

#### **SECTION 4. PERSONAL USE.**

**Sections 11018 of the Health and Safety Code is hereby amended, and Sections 11018.1 and 11018.2 of the Health and Safety Code are hereby added to read:**

##### **11018. Marijuana**

"Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include ~~the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination:~~

*(a) industrial hemp, as defined in Section 11018.5; or*

*(b) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

##### **11018.1. Marijuana Products**

"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

##### **11018.2. Marijuana Accessories**

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

**Sections 11362.1 through 11362.45 are added to the Health and Safety Code, to read:**

##### **11362.1.**

*(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:*

*(1) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;*

- (2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;*
- (3) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;*
- (4) Smoke or ingest marijuana or marijuana products; and*
- (5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.*
- (b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subdivision (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. § 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana accessories.*
- (c) Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.*

*11362.2.*

*(a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:*

- (1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b) of this section.*
- (2) The living plants and any marijuana produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.*

*(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.*

*(b)(1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.*

*(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.*

*(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.*

*(4) Paragraph (3) of this subdivision shall become inoperable upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the California Attorney General.*

*(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.*

*11362.3.*

*(a) Nothing in Section 11362.1 shall be construed to permit any person to:*

*(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.*

*(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.*

*(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.*

*(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.*

*(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.*

*(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code.*

*(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.*

*(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.*

*(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.*

*(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.*

*(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O<sub>2</sub> or H<sub>2</sub>; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.*

*(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.*

*(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.*

*11362.4.*

*(a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over*

*a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.*

*(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two hundred and fifty dollar (\$250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.*

*(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivisions (c) or (d) of Section 11357.*

*(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.*

*(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two hundred and fifty dollar (\$250) fine.*

*(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.*

*(g)(1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.*

*(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.*

*(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.*

#### *11362.45.*

*Nothing in section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:*

*(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.*

*(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.*

*(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.*

*(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.*



- (e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.*
- (f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.*
- (g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.*
- (h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.*
- (i) Laws pertaining to the Compassionate Use Act of 1996.*

## **SECTION 5. USE OF MARIJUANA FOR MEDICAL PURPOSES.**

**Sections 11362.712, 11362.713, 11362.84 and 11362.85 are added to the Health and Safety Code, and 11362.755 of the Health and Safety Code is amended to read:**

### *11362.712.*

- (a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.*
- (b) A county health department or the county's designee shall develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.*

### *11362.713.*

- (a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Civil Code § 56, et seq.) and shall not be disclosed by the Department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.*
- (b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.*
- (c) Notwithstanding Section 56.10 of the Civil Code, neither the Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical*

*conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.*

*(d) No identification card application system or database used or maintained by the Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.*

11362.755.

*(a) ~~The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number.~~ Each county health department or the county's designee may charge an additional a fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.*

*(b) In no event shall the amount of the fee charged by a county health department exceed \$100 per application or renewal.*

*(c) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.*

*(d) Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.*

*(e) In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.*

11362.84.

*The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.*

11362.85.

*Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.*

## **SECTION 6. MARIJUANA REGULATION AND SAFETY.**

**Division 10 is hereby added to the Business and Professions Code to read as follows:**

## ***Division 10. Marijuana***

### ***Chapter 1. General Provisions and Definitions***

26000.

*(a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.*

*(b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.*

*(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.*

26001.

*For purposes of this division, the following definitions shall apply:*

*(a) "Applicant" means the following:*

*(1) The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.*

*(2) If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.*

*(b) "Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.*

*(c) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.*

*(d) "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.*

*(e) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.*

*(f) "Customer" means a natural person 21 years of age or over.*

*(g) "Day care center" shall have the same meaning as in Section 1596.76 of the Health and Safety Code.*

*(h) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.*

*(i) "Director" means the Director of the Department of Consumer Affairs.*

- (j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
- (k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.
- (l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (m) "License" means a state license issued under this division.
- (n) "Licensee" means any person or entity holding a license under this division.
- (o) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (p) "Local jurisdiction" means a city, county, or city and county.
- (q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- (r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.
- (s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
- (t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
- (v) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.
- (w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.
- (x) "Package" means any container or receptacle used for holding marijuana or marijuana products.
- (y) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.
- (aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.

(2) Registered with the Department of Public Health.

(cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.

(dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.

(ee) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

## **Chapter 2. Administration**

26010.

(a) The Bureau of Medical Marijuana Regulation established in Section 19302 in Chapter 3.5 of Division 8 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 of Division 8.

(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.

(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011.

Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall have nor do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 of Division 8.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

26012.

*(a) It being a matter of statewide concern, except as otherwise authorized in this division:*

*(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.*

*(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.*

*(3) The Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.*

*(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.*

*(c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.*

26013.

*(a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.*

*(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.*

*(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.*

26014.

*(a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such unreasonably*

*impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.*

*(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.*

*(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.*

26015.

*A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.*

26016.

*For any hearing held pursuant to this division, except a hearing held under Chapter 4, a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.*

26017.

*In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.*

26018.

*A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.*

### **Chapter 3. Enforcement**

26030.

*Grounds for disciplinary action include:*

*(a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.*

*(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.*

*(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.*

*(d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.*

*(e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.*

*(f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.*

*(g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.*

*26031.*

*Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.*

*26032.*

*Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.*

*26033.*

*Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.*

*26034.*

*Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.*

*26035.*

*(a) The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.*

*26036.*

*Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.*

*26037.*

*(a) The actions of a licensee, its employees, and its agents that are: (1) permitted under a license issued under this division and any applicable local ordinances; and (2) conducted in accordance*



*with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.*

*(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.*

26038.

*(a) A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b).*

*(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.*

*(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.*

#### **Chapter 4. Appeals**

26040.

*(a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.*

*(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.*

*(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if five Members of the Senate, or ten Members of the Assembly, join as authors.*

26041.

*All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform such other mechanics of administration as the panel and the director may agree upon.*

26042.

*The panel shall adopt procedures for appeals similar to the procedures used in Articles 3 and 4 in Chapter 1.5 in Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, section 11340 et seq.).*

26043.

*(a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.*

*(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:*

*(1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.*

*(2) Whether the bureau or any licensing authority has proceeded in the manner required by law.*

*(3) Whether the decision is supported by the findings.*

*(4) Whether the findings are supported by substantial evidence in the light of the whole record.*

26044.

*(a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.*

*(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.*

26045.

*Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.*

## **Chapter 5. Licensing**

26050.

*(a) The license classification pursuant to this division shall, at a minimum, be as follows:*

- (1) Type 1 = Cultivation; Specialty outdoor; Small.*
- (2) Type 1A = Cultivation; Specialty indoor; Small.*
- (3) Type 1B = Cultivation; Specialty mixed-light; Small.*
- (4) Type 2 = Cultivation; Outdoor; Small.*
- (5) Type 2A = Cultivation; Indoor; Small.*
- (6) Type 2B = Cultivation; Mixed-light; Small.*
- (7) Type 3 = Cultivation; Outdoor; Medium.*
- (8) Type 3A = Cultivation; Indoor; Medium.*
- (9) Type 3B = Cultivation; Mixed-light; Medium.*
- (10) Type 4 = Cultivation; Nursery.*
- (11) Type 5 = Cultivation; Outdoor; Large.*
- (12) Type 5A = Cultivation; Indoor; Large.*
- (13) Type 5B = Cultivation; Mixed-light; Large.*
- (14) Type 6 = Manufacturer 1.*
- (15) Type 7 = Manufacturer 2.*
- (16) Type 8 = Testing.*
- (17) Type 10 = Retailer.*
- (18) Type 11 = Distributor.*
- (19) Type 12 = Microbusiness.*

*(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8. Examples of such a designation include, but are not limited to, "Type 1 – Nonmedical," or "Type 1NM."*

*(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.*

*(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.*

*(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operable on January 1, 2019.*

26051.

*(a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:*

- (1) allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;*
- (2) perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;*
- (3) encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;*
- (4) result in an excessive concentration of licensees in a given city, county, or both;*

*(5) present an unreasonable risk of minors being exposed to marijuana or marijuana products; or*

*(6) result in violations of any environmental protection laws.*

*(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).*

*(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:*

*(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.*

*(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.*

*26052.*

*(a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:*

*(1) Make any contract in restraint of trade in violation of Section 16600;*

*(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;*

*(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;*

*(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;*

*(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or*

*(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.*

*(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.*

- (c) A licensing authority may enforce this section by appropriate regulation.*
- (d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.*

26053.

- (a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 of Division 8.*
- (b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.*
- (c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.*

26054.

- (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 or of tobacco products.*
- (b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in paragraph (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.*
- (c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 of Division 8 permitted to provide or deliver such marijuana or marijuana products.*

26054.1

- (a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.*
- (b) Subdivision (a) shall cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature.*

26054.2

- (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 of Division 8.*
- (b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any*

applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

(d) This section shall cease to be operable on December 31, 2019 unless otherwise provided by law.

26055.

(a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056.

An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 of Chapter 3.5 of Division 8 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) notwithstanding paragraph (2) of subdivision (a) of Section 19322 of Chapter 3.5 of Division 8, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

(b) an application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and

(c) for applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

- (4) The inventory process.*
- (5) Quality control procedures.*
- (6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.*
- (d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.*

*26056.5.*

*The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the California Endangered Species Act (Fish and Game Code, Section 2800 et. seq.), lake or streambed alteration agreements (Fish and Game Code, Section 1600 et. seq.), the Clean Water Act, the Porter-Cologne Water Quality Control Act, timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.*

*26057.*

- (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.*
- (b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:*
  - (1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.*
  - (2) Conduct that constitutes grounds for denial of licensure under Chapter 2 of Division 1.5, except as otherwise specified in this section and Section 26059.*
  - (3) Failure to provide information required by the licensing authority.*
  - (4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:*
    - (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.*

- (B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.*
- (C) A felony conviction involving fraud, deceit, or embezzlement.*
- (D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.*
- (E) A felony conviction for drug trafficking with enhancements pursuant to Sections 11370.4 or 11379.8.*
- (5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.*
- (6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Sections 12025 or 12025.1 of the Fish and Game Code.*
- (7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Sections 12025 or 12025.1 of the Fish and Game Code.*
- (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.*
- (9) Any other condition specified in law.*

26058.

*Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.*

26059.

*An applicant shall not be denied a state license if the denial is based solely on any of the following:*

- (a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.*
- (b) A conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.*



## **Chapter 6. Licensed Cultivation Sites**

26060.

(a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 19332 of Chapter 3.5 of Division 8.

(e) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

26061.

(a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332 of Chapter 3.5 of Division 8.

(c) Except as otherwise provided by law:

(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

26062.

*The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5 of Chapter 3.5 of Division 8.*

26063.

*(a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.*

*(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.*

*(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.*

26064.

*Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.*

26065.

*An employee engaged in the cultivation of marijuana under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.*

26066.

*Indoor and outdoor marijuana cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.*

26067.

*(a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.*

*(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.*

*(c)(1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:*

- (A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.*
- (B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.*
- (2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.*
- (A) Unique identifiers will only be issued to those persons appropriately licensed by this section.*
- (B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.*
- (C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.*
- (D) The department may promulgate regulations to implement this section.*
- (3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.*
- (d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.*
- (e) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.*
- (2) Subdivision (b) of this section does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.*
- (f) "Department" for purposes of this section means the Department of Food and Agriculture.*

## **Chapter 7. Retailers and Distributors**

### **26070. Retailers and Distributors**

- (a) State licenses to be issued by the Department of Consumer Affairs are as follows:*
  - (1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.*
  - (2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.*
  - (3) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.*
- (b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation*

*safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.*

*(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:*

*(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.*

*(2) Establishing limited access areas accessible only to authorized personnel.*

*(3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.*

#### *26070.5*

*(a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b).*

*The bureau shall consider factors including, but not limited to, the following:*

*(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?*

*(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?*

*(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons?*

*(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons so long as the local jurisdiction:*

*(1) confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;*

*(2) licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;*

*(3) provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;*

*(4) certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).*

*(c) Temporary local licenses authorized under subdivision (b) shall expire after twelve months unless renewed by the local jurisdiction.*

*(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).*

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

## **Chapter 8. Distribution and Transport**

26080.

(a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, marijuana or marijuana products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

## **Chapter 9. Delivery**

26090.

(a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

## **Chapter 10. Manufacturers and Testing Laboratories**

26100.

The Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the Department. A testing

licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.2 of the Health and Safety Code unless otherwise provided by law or regulation.

26101.

(a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana product has been tested by a certified testing service to determine:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O<sub>2</sub> or H<sub>2</sub>, and poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

26102.

A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 in Chapter 3.5 of Division 8 or unless otherwise provided by law.

26103.

*A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 in Chapter 3.5 of Division 8 or unless otherwise provided by law.*

26104.

*(a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.*

*(b) The Department of Public Health shall develop procedures to:*

*(1) ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;*

*(2) specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne a nonprofit licensed under Section 26070.5; and*

*(3) require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the Department of Public Health.*

26105.

*Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.*

26106.

*Standards for the production and labeling of all marijuana products developed by the Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the Department of Public Health.*

## **Chapter 11. Quality Assurance, Inspection, and Testing**

26110.

*(a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.*

*(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326 in Chapter 3.5 of Division 8 except as otherwise provided in this division or by law.*



## **Chapter 12. Packaging and Labeling**

26120.

(a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

(b) Packages and labels shall not be made to be attractive to children.

(c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the Department of Public Health: *not less than 8 point font*:

(1) Manufacture date and source.

(2) The following statements, in bold print:

(A) For marijuana: **“GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”**

(B) For marijuana products: **“GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”**

(3) For packages containing only dried flower, the net weight of marijuana in the package.

(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.

(5) The appellation of origin, if any.

(6) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in 21 C.F.R. section 101.9.

(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.

(9) A warning if nuts or other known allergens are used.

(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(11) Any other requirement set by the bureau or the Department of Public Health.



- (d) Only generic food names may be used to describe the ingredients in edible marijuana products.*
- (e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that marijuana is a schedule I controlled substance.*

### **Chapter 13. Marijuana Products**

26130.

*(a) Marijuana products shall be:*

- (1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.*
  - (2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol per serving.*
  - (3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.*
  - (4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.*
  - (5) Manufactured and sold under sanitation standards established by the Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.*
  - (6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.*
- (b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.*

### **Chapter 14. Protection of Minors**

26140.

*(a) No licensee shall:*

- (1) Sell marijuana or marijuana products to persons under 21 years of age.*
  - (2) Allow any person under 21 years of age on its premises.*
  - (3) Employ or retain persons under 21 years of age.*
  - (4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.*
- (b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).*

*(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 of Division 8 may:*

*(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;*

*(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.*

## ***Chapter 15. Advertising and Marketing Restrictions***

*26150.*

*For purposes of this chapter:*

*(a) "Advertise" means the publication or dissemination of an advertisement.*

*(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:*

*(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.*

*(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.*

*(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently-affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.*

*(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.*

*(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including but not limited to, sponsorship of sporting events, point of sale advertising, development of products specifically designed to appeal to certain demographics, etc.*

*26151.*

*(a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.*

*(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.*

*(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.*

*(d) All advertising shall be truthful and appropriately substantiated.*

26152.

*No licensee shall:*

*(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression;*

*(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;*

*(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;*

*(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;*

*(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;*

*(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or*

*(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.*

26153.

*No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.*

26154.

*No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.*

26155.

*(a) The provisions of subsection (g) of section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.*

*(b) This chapter does not apply to any noncommercial speech.*

## **Chapter 16. Records**

26160.

- (a) A licensee shall keep accurate records of commercial marijuana activity.*
- (b) All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.*
- (c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.*
- (d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.*
- (e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.*
- (f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.*

26161.

- (a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.*
- (b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:*
  - (1) Name and address of the purchaser.*
  - (2) Date of sale and invoice number.*
  - (3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.*
  - (4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.*
  - (5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.*
  - (6) Any other information specified by the bureau or the licensing authority.*

## **Chapter 17. Track and Trace System**

26170.

- (a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis*

products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The Department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the Department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

## **Chapter 18. License Fees**

26180.

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181.

The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

## **Chapter 19. Annual Reports; Performance Audit**

26190.

*Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's website. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.*

26191.

*(a) Commencing January 1, 2019, and by January 1 of each year thereafter, the Bureau of State Audits shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:*

*(1) The actual costs of the program.*

*(2) The overall effectiveness of enforcement programs.*

*(3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.*

*(b) The Legislature shall provide sufficient funds to the Bureau of State Audits to conduct the annual audit required by this section.*

## **Chapter 20. Local Control**

26200.

*(a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.*

*(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.*

*(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within ten (10) days of notification, the bureau shall inform the relevant licensing authorities. Within ten (10) days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 of this Division to determine whether a license issued to the licensee should be suspended or revoked.*

*(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:*

*(1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;*

- (2) Marijuana consumption is not visible from any public place or non-age restricted area; and*
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.*

*26201.*

*Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.*

*26202.*

- (a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.*
- (b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.*

## ***Chapter 21. Funding***

*26210.*

- (a) The Medical Marijuana Regulation and Safety Act Fund established in Section 19351 of Chapter 3.5 of Division 8 is hereby renamed the Marijuana Control Fund.*
- (b) Upon the effective date of this section, whenever "Medical Marijuana Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.*

*26211.*

- (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.*
  - (1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 of Division 2 of the Revenue and Taxation Code.*
  - (2) Within 45 days of this section becoming operative:*
    - (A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars (\$30,000,000); and*
    - (B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the Department of Health Care Services to provide for the public information program described in subdivision (c).*

*(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.*

*(c) The Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.*

**Section 147.6 of the Labor Code is hereby added as follows:**

*147.6.*

*(a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.*

*(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.*

**Section 13276 of the Water Code is amended to read:**

*13276.*

*(a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.*

*(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and commercial marijuana cultivation under Division 10 of the Business and Profession Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:*

*(1) Site development and maintenance, erosion control, and drainage features.*



- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

## **SECTION 7. MARIJUANA TAX.**

*Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:*

### *Part 14.5. Marijuana Tax*

#### *34010.*

*For purposes of this part:*

- (a) "Board" shall mean the Board of Equalization or its successor agency.*
- (b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.*
- (c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.*
- (d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.*
- (e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.*
- (f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the Board.*
- (g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.*
- (h) "Gross receipts" shall have the same meaning as set forth in Section 6012.*
- (i) "Retail sale" shall have the same meaning as set forth in Section 6007.*
- (j) "Person" shall have the same meaning as set for in section 6005.*
- (k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.*
- (l) "Nonprofit" shall have the same meaning as set for in Section 26070.5 of the Business and Professions Code.*

#### *34011.*

*(a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness,*

nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.

(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

(f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012.

(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

(1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry-weight ounce.

(2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 of Division 8 of the Business and Professions Code or under Division 10 of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

#### 34013.

(a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and

shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014.

(a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

34015.

(a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Divisions 8 or 10 of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to section 34012(d) the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business or Professions Code or Division 10 of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

34016.

*(a) Any peace officer, or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.*

*(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.*

*(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.*

*(3) Inspections shall be requested or conducted no more than once in a 24-hour period.*

*(b) Any person who fails or refuses to allow an inspection shall be subject to a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.*

*(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.*

*(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.*

*(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.*

*(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.*

34017.

*The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.*

34018.

*(a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.*

*(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control,*

*Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.*

*(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.*

*34019.*

*(a) Beginning with fiscal year 2017-2018 the Department of Finance shall estimate revenues to be received pursuant to sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:*

*(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed four percent (4%) of tax revenues received.*

*(2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022-2023.*

*(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code to the extent those costs are not otherwise reimbursed.*

*(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.*

*(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.*

*(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.*

*(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code.*

*(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the*

*Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:*

- (1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.*
  - (2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.*
  - (3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.*
  - (4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.*
  - (5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.*
  - (6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.*
  - (7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.*
  - (8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the Act, and whether different agencies might do so more effectively.*
  - (9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.*
  - (10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.*
  - (11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.*
- (c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018-2019 until fiscal year 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research*

institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018-2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022-2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The Office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the Center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018-2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support Student Assistance Programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.



*(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.*

*(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.*

*(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.*

*(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.*

*(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.*

*(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.*

*(I) Construction of community-based youth treatment facilities.*

*(J) The departments may contract with each county behavioral health program for the provision of services.*

*(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.*

*(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.*

*(M) The departments may use up to four percent (4%) of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.*

*(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.*

*(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.*

*(2) Twenty percent (20%) shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:*

*(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.*

*(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.*

*(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.*

*(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).*

*(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of Statutes of 2014).*

*(3) Twenty percent (20%) shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:*

*(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The Department may hire personnel to conduct the training programs specified in this subparagraph.*

*(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.*

*(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The Board shall not make any grants to local governments which have banned*

*the cultivation, including personal cultivation under Section 11362.2(b)(3) of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.*

*(D) For purposes of this paragraph the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).*

*(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.*

*(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f) of this section. Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027-2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f) of this section.*

*34020.*

*The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.*

*34021.*

*(a) The taxes imposed by this Part shall be in addition to any other tax imposed by a city, county, or city and county.*

*34021.5*

*(a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code.*

*(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.*

*(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.*

*(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken*

*individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.*

*(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.*

*(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.*

*(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.*

## **SECTION 8. CRIMINAL OFFENSES, RECORDS, AND RESENTENCING.**

**Sections 11357, 11358, 11359, 11360 and 11361.5 of the Health and Safety Code are amended, and Sections 11361.1 and 11361.8 are added to read as follows:**

### **11357. Possession**

~~(a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (e) of Section 290 of the Penal Code.~~

~~(ba) Except as authorized by law, every person who possesses of not more than 28.5 grams of marijuana, other than or not more than four grams of concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100), or both, shall be punished or adjudicated as follows:~~

~~(1) Persons under the age of 18 shall be guilty of an infraction and shall be required to:~~

~~(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.~~

~~(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.~~

~~(2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).~~

~~(eb) Except as authorized by law, every person who possesses of more than 28.5 grams of marijuana, or more than four grams of other than concentrated cannabis, shall be punished as follows:~~

~~(1) Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:~~

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(dc) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, or not more than four grams of ~~other than~~ concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished ~~by a~~ as follows:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(ed) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, or not more than four grams of ~~other than~~ concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a ~~misdemeanor~~ ~~an infraction~~ and shall be punished in the same manner provided in paragraph (1) of subdivision (b) of this section. ~~subject to the following dispositions:~~

~~(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.~~

~~(2) A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

#### 11358. Planting, harvesting, or processing

Every person who plants, cultivates, harvests, dries, or processes ~~any~~ marijuana plants, or any part thereof, except as otherwise provided by law, *shall be punished as follows:*

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

*(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, shall may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:*

*(1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;*

*(2) the person has two or more prior convictions under subdivision (c); or*

*(3) the offense resulted in any of the following:*

*(A) violation of Section 1052 of the Water Code relating to illegal diversion of water;*

*(B) violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;*

*(C) violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;*

*(D) violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;*

*(E) violation of Section 374.8 of the Penal Code relating to hazardous substances or Sections 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;*

*(F) violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or*

*(G) intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.*

#### **11359. Possession for sale**

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished as follows:

*(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.*

*(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.*

*(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:*

*(1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;*

*(2) the person has two or more prior convictions under subdivision (b); or*

*(3) the offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.*

*(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.*

11360. Unlawful transportation, importation, sale, or gift

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished as follows:

*(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of section 11357.*

*(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.*

*(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period two, three, or four years if:*

*(A) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;*

*(B) the person has two or more prior convictions under paragraph (2);*

*(C) the offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or*

*(D) the offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.*

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an ~~infraction-misdemeanor~~ and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

*(c) For purposes of this section, "transport" means to transport for sale.*

*(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.*

11361.1.

*(a) The drug education and counseling requirements under sections 11357, 11358, 11359, and 11360 shall be:*

*(1) mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;*

*(2) free to participants, and the drug education provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.*

*(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under sections 11357, 11358, 11359; and 11360.*



**Subdivision (a) of Section 11361.5 of the Health and Safety Code is amended to read:**

**11361.5. Destruction of arrest and conviction records; Procedure; Exceptions**

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of ~~subdivision (b), (e), (d), or (e)~~ of Section 11357 or subdivision (b) of Section 11360, *or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5*, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision ~~(e)~~ of Section 11357, *or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs*, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, *including the statewide criminal databases*, shall provide for the timely destruction of the records in accordance with subdivision (c), *and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall begin to run from the date the person is released from custody.* The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, *or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.*

**Section 11361.8 is added to the Health and Safety Code to read:**

**11361.8**

(a) *A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.*

(b) *Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.*



- (1) *In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.*
- (2) *As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.*
- (c) *A person who is serving a sentence and resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Penal Code Section 3000.08 or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.*
- (d) *Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.*
- (e) *A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.*
- (f) *The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.*
- (g) *Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).*
- (h) *Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.*
- (i) *If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.*
- (j) *Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.*
- (k) *Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.*

*(l) A resentencing hearing ordered under this act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).*

*(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.*

*(l) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.*

## **SECTION 9. INDUSTRIAL HEMP.**

**Section 11018.5 of the Health and Safety Code is amended to read as follows:**

### **11018.5. Industrial hemp**

*(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant Cannabis sativa L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant; the resin extracted from any part of the plant; and or any other every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or mature stalks, except the resin or flowering tops extracted produced therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.*

*(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this Division or of Division 10 of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 of the Food and Agricultural Code, inclusive.*

**Sections 81000, 81006, 81008, and 81010 of the Food and Agricultural Code are amended to read, and Section 81007 of the Food and Agricultural Code is repealed as follows:**

### **81000. Definitions**

For purposes of this division, the following terms have the following meanings:

*(a) "Board" means the Industrial Hemp Advisory Board.*

*(b) "Commissioner" means the county agricultural commissioner.*

*(c) "Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers.  
any institution that is either:*

*(1) a public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or*

*(2) an institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for*

*purposes of research conducted under an agricultural pilot program or other agricultural or academic research.*

(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

(e) "Secretary" means the Secretary of Food and Agriculture.

(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) "Seed cultivar" means a variety of industrial hemp.

(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

81006. Industrial hemp growth limitations; Prohibitions; Imports; Laboratory testing

(a)(1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than ~~five acres~~ *one-tenth of an acre* at the same time, and ~~no portion of an acreage of industrial hemp shall include plots of less than one contiguous acre.~~

(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an acre* at the same time, and ~~no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.~~

(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than *one-tenth of an acre* and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.

(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.

(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

- (2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.
- (3) The sample collected for THC testing shall be accompanied by the following documentation:
- (A) The registrant's proof of registration.
  - (B) Seed certification documentation for the seed cultivar used.
  - (C) The THC testing report for each certified seed cultivar used.
- (4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC, shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.
- (5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.
- (6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.
- (7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.
- (8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.
- (9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.
- (10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing,

transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

#### 81007. Prohibitions; De minimis considerations

~~(a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

#### 81008. Attorney General reports; Requirements

~~(a) Not later than January 1, 2019, or five years after the provisions of this division are authorized under federal law, whichever is later, the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:~~

~~(1) A field of industrial hemp being used to disguise marijuana cultivation.~~

~~(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.~~

~~(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.~~

#### 81010. Operation of division

~~(a) This division, and Section 221 of the Food and Agricultural Code, shall not become operative unless authorized under federal law on January 1, 2017.~~

~~(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 of the Business and Professions Code.~~

### SECTION 10. AMENDMENT.

This Act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this Act contained in Sections 5 and 6 to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this Act as stated in Section 3. Amendments to this Act that enact protections for employees and other workers of licensees under Section 6 of this Act that are in addition to the protections provided for in this Act or that

otherwise expand the legal rights of such employees or workers of licensees under Section 6 of this Act shall be deemed to be consistent with and further the purposes and intent of this Act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this Act. Except as otherwise provided, the provisions of the Act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the Act.

#### **SECTION 11. CONSTRUCTION AND INTEPRETATION.**

The provisions of this Act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this Act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this Act and federal law cannot consistently stand together.

#### **SECTION 12. SEVERABILITY.**

If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

#### **SECTION 13. CONFLICTING INITIATIVES.**

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.



## CITY COUNCIL AGENDA – MARCH 7, 2017

**SUBJECT:** Consideration of Nomination to the City Selection Committee for Appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

**SOURCE:** Administrative Services

**COMMENT:** There is currently a vacancy on the San Joaquin Valley Air Pollution Control District's Governing Board that must be filled by a Council Member from a small City (less than 100,000 population) in Tulare County. This is the seat vacated by former City Council Member Virginia Gurrola. Pursuant to the Health and Safety Code Section 40600.5, appointments to the District's Governing Board are made by the San Joaquin Valley Special City Selection Committee. According to the procedures adopted by the Committee, the next step in the appointment process is for all cities within Tulare County to choose from candidates that have applied for the vacant position. These candidates are as follows:

- Council Member Rudy Mendoza, City of Woodlake
- Council Member Jose Sigala, City of Tulare
- Council Member Kuldip Thusu, City of Dinuba
- Council Member Monte Reyes, City of Porterville

The City Council must nominate its preferred candidate via City Council resolution to be forwarded to the Committee by March 15, 2017, for appointment to the District's Governing Board.

A copy of each candidate's application is attached for the Council's reference.

**RECOMMENDATION:** That the City Council:

1. Select a candidate to nominate to the City Selection Committee for appointment to the San Joaquin Valley Air Pollution Control District's Governing Board; and
2. Approve the draft resolution nominating its preferred candidate; and
3. Direct the City Clerk to forward a copy of the signed Resolution to the District no later than March 15, 2017.

**ATTACHMENTS:** 1. Application-Rudy Mendoza, City of Woodlake

2. Application-Jose Sigala, City of Tulare
3. Application-Kuldip Thusu, City of Dinuba
4. Application-Monte Reyes, City of Porterville
5. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:

Patrice Hildreth, Administrative Services Dir

Final Approver: John Lollis, City Manager





# San Joaquin Valley

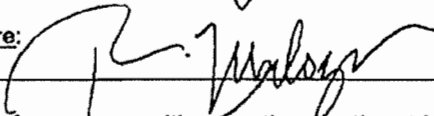
AIR POLLUTION CONTROL DISTRICT

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

### Current Vacancies

**Small City:** One member representing the cities with a population less than 100,000 from Tulare County. Councilmembers from Cities of **Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, and Woodlake** are eligible to apply.

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

|                                                                                            |                                                                                                   |
|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>Applicant Name:</b>                                                                     | RUDY MENDOZA                                                                                      |
| <b>Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):</b> | 727 N. ACACIA STREET                                                                              |
| <b>Mailing Address:</b>                                                                    | WOODLAKE CA 93286                                                                                 |
| <b>Telephone:</b>                                                                          | (559) 303-4860 (559) 564-8055<br>Primary Alt.                                                     |
| <b>Email Address:</b>                                                                      | RMENDOZA@CI.WOODLAKE.CA.US                                                                        |
| <b>Applicant Signature:</b>                                                                |  Date: 2.17.17 |

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **February 10, 2017** to:

Sayed Sadredin  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726



# San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

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

### Current Vacancies

**Small City:** One member representing the cities with a population less than 100,000 from Tulare County. Councilmembers from Cities of *Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, and Woodlake* are eligible to apply.

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

|                                                                                            |                                        |                      |
|--------------------------------------------------------------------------------------------|----------------------------------------|----------------------|
| <b>Applicant Name:</b>                                                                     | Jose Sigala                            |                      |
| <b>Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):</b> | 285 Yellowstone Street Tulare CA 93274 |                      |
| <b>Mailing Address:</b>                                                                    | SAME AS ABOVE                          |                      |
| <b>Telephone:</b>                                                                          | (559) 754-7454                         | ( )                  |
|                                                                                            | Primary                                | Alt.                 |
| <b>Email Address:</b>                                                                      | jsigala@tulare.ca.gov                  |                      |
| <b>Applicant Signature:</b>                                                                | Jose Sigala                            | <b>Date:</b> 2-13-17 |

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **February 10, 2017** to:

Sayed Sadredin  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726



# San Joaquin Valley

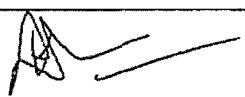
AIR POLLUTION CONTROL DISTRICT

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

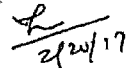
### Current Vacancies

**Small City:** One member representing the cities with a population less than 100,000 from Tulare County. Councilmembers from Cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, and Woodlake are eligible to apply.

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

|                                                                                            |                                                                                                   |
|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>Applicant Name:</b>                                                                     | KULDIP THUSU                                                                                      |
| <b>Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):</b> | 901 TIMOTHY AVE., DINUBA, CA 93618                                                                |
| <b>Mailing Address:</b>                                                                    | SAME AS RESIDENCE                                                                                 |
| <b>Telephone:</b>                                                                          | (559) 288 1871 (559) 859 3053<br>Primary Alt. ANA WISOCKI                                         |
| <b>Email Address:</b>                                                                      | kthusu@dinuba.ca.gov                                                                              |
| <b>Applicant Signature:</b>                                                                |  Date: 2/20/17 |

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **February 18, 2017** to:

21   
Seyed Sadredin  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726



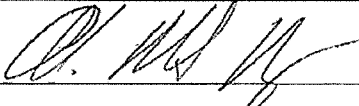
## San Joaquin Valley AIR POLLUTION CONTROL DISTRICT

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

#### Current Vacancies

**Small City:** One member representing the cities with a population less than 100,000 from Tulare County. Councilmembers from Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare and Woodlake are eligible to apply.

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

|                                                                                            |                                                                                                   |
|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>Applicant Name:</b>                                                                     | Monte Reyes                                                                                       |
| <b>Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):</b> | 461 Roma Rancho Ct. Porterville, Ca 93257                                                         |
| <b>Mailing Address:</b>                                                                    | 291 N. Main St. Porterville, Ca 93257                                                             |
| <b>Telephone:</b>                                                                          | (559) 544-4258 (559) 928-2464<br>Primary Alt.                                                     |
| <b>Email Address:</b>                                                                      | montereyes@Porterville.ca.gov                                                                     |
| <b>Applicant Signature:</b>                                                                |  Date: 2/21/17 |

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return. Applications must be received by the District via mail or email on or before **February 21, 2017**.

Sayed Sadredin  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726  
seyed.sadredin3@valleyair.org

San Joaquin Valley APCD  
1990 E. Gettysburg Avenue  
Fresno, CA 93726

My name is Monte Reyes. I was recently elected to a 4-year term on the Porterville City Council after serving a 2-year appointment. Please accept my application for appointment as a City Representative on the Governing Board of the San Joaquin Valley Air Pollution Control District. I am eager to serve my region with an engaged board and would find it rewarding to work within the Air District's Mission.

Recent Board and Commission seats:

Tulare County Economic Development Corporation Board of Directors – *Vice Chair* – 2017

Imagine Community Arts Center - Board of Directors - *Chairman* – 2017

Board of Directors, Leadership Porterville – *President* 2014 - 2016

Porterville Chamber of Commerce - *Vice Chair of Community Outreach* 2011 - 2014

City of Porterville Arts Commission - *Chairman* - 2013 - 2014

Transaction and Use Tax Oversight Committee- *Secretary Then Chairman* - 2012 – 2013

Please let me know if you require additional information or have any questions. Thank you for your consideration.

Respectfully,

  
Monte Reyes

RESOLUTION NO. \_\_\_\_-2017

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF PORTERVILLE NOMINATING A PREFERRED CANDIDATE  
FOR APPOINTMENT TO THE SAN JOAQUIN VALLEY  
AIR POLLUTION CONTROL DISTRICT'S GOVERNING BOARD

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

WHEREAS, the Special City Selection Committee has adopted procedures for making its appointments, and there is currently a vacancy and a need to appoint a City Council Member representing a "small" city with a population of less than 100,000 from Tulare County to the District Governing Board; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the City of Porterville hereby nominates \_\_\_\_\_ to the Special City Selection Committee for appointment to the District Governing Board.

PASSED, APPROVED, AND ADOPTED this 7<sup>th</sup> day of March, 2017.

\_\_\_\_\_  
Milt Stowe, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



## CITY COUNCIL AGENDA – MARCH 7, 2017

SUBJECT: Status and Review of Declaration of Local Emergency

SOURCE: City Manager's Office

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

On November 13, 2015, Governor Brown issued Executive Order B-36-15, which extends emergency conservation regulations through October 2016, if drought conditions persist through January. On February 2, 2016, the State Water Resources Control Board adopted extended emergency water conservation regulations, to be in effect March 1 through October 31, 2016. The City of Porterville benefited somewhat from the extended regulations as the City's water conservation rate has been reduced from 32% to 26%, due to new water connections that have been made and population served (4%), as well as a new climate adjustment factor that was considered (2%).

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

At its last meeting on February 21, 2017, the City Council took action in the continued affirmation of the adoption of a Resolution of Declaration of Local Emergency due to local residences within the city having been identified as

having wells that are now dry as a result of the drought. Approximately 30 residences within the city have been determined to currently have dry wells, most of which are concentrated in the vicinity of E. Vandalia Avenue between Main and Plano Streets, and it is anticipated that more could likely occur as drought conditions continue. City staff submitted a Mutual Aid Request to Tulare County OES to initiate the household tank program for identified properties within the city where wells are dry.

Representatives for the City, County, and State (CalOES, DDW, DWR, and SWB) have continued to meet in support of a long-term permanent water connection project for the entire East Porterville area and the estimated 1,800 expected future connections. DWR has identified 423 residential units in the East Porterville area (381 of which are in the City's Urban Development Boundary), that are currently served by the County's Household Tank Program and desired by the State to be connected to the City's water distribution system as soon as possible. DWR has begun a significant City waterline extension project to permanently connect those 423 residential units to the City's water system. To provide source water for the DWR extension project, CalOES desired to expeditiously connect the new well on Olive Avenue to the City's water system instead of being first equipped as a filling station. Given the new well has an estimated water production value of 800 gallons per minute, as well as a SWB assumed 1.5 gallons per minute per residence, the new well could effectively serve up to 500 single-family residential units. The City indicated its significant interest that the E. Vandalia Avenue area and its 80 residential units be included in the water connection project, to which the State agreed.

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

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

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

In regards to the status of the new well's development and connection to the



City's water distribution system, the Board of Supervisors awarded the contract for equipping and connecting the new well at their meeting of Tuesday, August 16, 2016, and construction activities commenced the week of October 10, 2016. County staff had previously indicated that the well would be in service and connected to the City's system no later than December 2016, however, the well was operational and connected to the City's water distribution as of Friday, February 17, 2017. Given the delay in the well's completion and connection, DWR requested that the City Council consider allowing the connection of residences as they become prepared for connection, to which the Council was receptive, and a Draft MOU Amendment was approved by the Council at its meeting on December 6, 2016, and subsequently approved by the Board of Supervisors at its meeting on December 20, 2016.

County OES and the State Division of Drinking Water (DDW) have recently reported to the City that the Central Mutual Water Company, located south of the city and south of Gibbons Avenue, has had its well run dry and desires an immediate emergency connection to the City's water system to serve the 41 connections currently without water. DDW is wishing to support a financial application to upgrade the small water system to City standards (new water lines, meters, etc.), and to sponsor an Urban Development Boundary (UDB) Amendment application to Tulare County Local Agency Formation Commission (LAFCO), given this area is currently outside the City's UDB but within the City's Urban Area Boundary (UAB). Given several private wells have run dry in this area, DDW is also attempting to sponsor their connection to the City's water system. For source water capacity for the connections, DWR will include these new connections within the East Porterville water connection capacity development projects. At its Special meeting on August 30th, the City Council directed staff to proceed with the immediate emergency connection of the Central water system, with the permanent connection of the system contingent upon an Agreement with DDW to the sponsorship conditions they have offered.

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

**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. Resolution 49-2015 - Declaration of Local Emergency
  2. Governor Executive Order
  3. City-County Well Agreement
  4. Memorandum of Understanding
  5. Memorandum of Understanding Draft Amendment

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

RESOLUTION NO. 49-2015

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

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

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

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

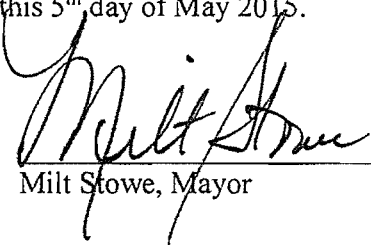
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

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

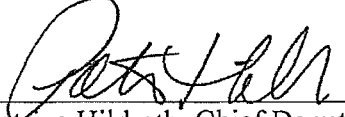
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance,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

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of May 2015.

  
Milt Stowe, Mayor

ATTEST:  
John D. Lollis, City Clerk

  
By: Patrice Hildreth, Chief Deputy City Clerk

# Executive Department

State of California

## EXECUTIVE ORDER B-37-16 MAKING WATER CONSERVATION A CALIFORNIA WAY OF LIFE

**WHEREAS** California has suffered through a severe multi-year drought that has threatened the water supplies of communities and residents, devastated agricultural production in many areas, and harmed fish, animals and their environmental habitats; and

**WHEREAS** Californians responded to the drought by conserving water at unprecedented levels, reducing water use in communities by 23.9% between June 2015 and March 2016 and saving enough water during this period to provide 6.5 million Californians with water for one year; and

**WHEREAS** severe drought conditions persist in many areas of the state despite recent winter precipitation, with limited drinking water supplies in some communities, diminished water for agricultural production and environmental habitat, and severely-depleted groundwater basins; and

**WHEREAS** drought conditions may persist in some parts of the state into 2017 and beyond, as warmer winter temperatures driven by climate change reduce water supply held in mountain snowpack and result in drier soil conditions; and

**WHEREAS** these ongoing drought conditions and our changing climate require California to move beyond temporary emergency drought measures and adopt permanent changes to use water more wisely and to prepare for more frequent and persistent periods of limited water supply; and

**WHEREAS** increasing long-term water conservation among Californians, improving water use efficiency within the state's communities and agricultural production, and strengthening local and regional drought planning are critical to California's resilience to drought and climate change; and

**WHEREAS** these activities are prioritized in the California Water Action Plan, which calls for concrete, measurable actions that "Make Conservation a California Way of Life" and "Manage and Prepare for Dry Periods" in order to improve use of water in our state.

**NOW, THEREFORE, I, EDMUND G. BROWN JR.,** Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, in particular California Government Code sections 8567 and 8571, do hereby issue this Executive Order, effective immediately.

**IT IS HEREBY ORDERED THAT:**

The orders and provisions contained in my January 17, 2014 Emergency Proclamation, my April 25, 2014 Emergency Proclamation, Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15 remain in full force and in effect except as modified herein.

State agencies shall update temporary emergency water restrictions and transition to permanent, long-term improvements in water use by taking the following actions.

**USE WATER MORE WISELY**

1. The State Water Resources Control Board (Water Board) shall, as soon as practicable, adjust emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions across the state. To prepare for the possibility of another dry winter, the Water Board shall also develop, by January 2017, a proposal to achieve a mandatory reduction in potable urban water usage that builds off of the mandatory 25% reduction called for in Executive Order B-29-15 and lessons learned through 2016.
2. The Department of Water Resources (Department) shall work with the Water Board to develop new water use targets as part of a permanent framework for urban water agencies. These new water use targets shall build upon the existing state law requirements that the state achieve a 20% reduction in urban water usage by 2020. (Senate Bill No. 7 (7th Extraordinary Session, 2009-2010).) These water use targets shall be customized to the unique conditions of each water agency, shall generate more statewide water conservation than existing requirements, and shall be based on strengthened standards for:
  - a. Indoor residential per capita water use;
  - b. Outdoor irrigation, in a manner that incorporates landscape area, local climate, and new satellite imagery data;
  - c. Commercial, industrial, and institutional water use; and
  - d. Water lost through leaks.

The Department and Water Board shall consult with urban water suppliers, local governments, environmental groups, and other partners to develop these water use targets and shall publicly issue a proposed draft framework by January 10, 2017.

3. The Department and the Water Board shall permanently require urban water suppliers to issue a monthly report on their water usage, amount of conservation achieved, and any enforcement efforts.

## **ELIMINATE WATER WASTE**

4. The Water Board shall permanently prohibit practices that waste potable water, such as:
  - Hosing off sidewalks, driveways and other hardscapes;
  - Washing automobiles with hoses not equipped with a shut-off nozzle;
  - Using non-recirculated water in a fountain or other decorative water feature;
  - Watering lawns in a manner that causes runoff, or within 48 hours after measurable precipitation; and
  - Irrigating ornamental turf on public street medians.
5. The Water Board and the Department shall direct actions to minimize water system leaks that waste large amounts of water. The Water Board, after funding projects to address health and safety, shall use loans from the Drinking Water State Revolving Fund to prioritize local projects that reduce leaks and other water system losses.
6. The Water Board and the Department shall direct urban and agricultural water suppliers to accelerate their data collection, improve water system management, and prioritize capital projects to reduce water waste. The California Public Utilities Commission shall order investor-owned water utilities to accelerate work to minimize leaks.
7. The California Energy Commission shall certify innovative water conservation and water loss detection and control technologies that also increase energy efficiency.

## **STRENGTHEN LOCAL DROUGHT RESILIENCE**

8. The Department shall strengthen requirements for urban Water Shortage Contingency Plans, which urban water agencies are required to maintain. These updated requirements shall include adequate actions to respond to droughts lasting at least five years, as well as more frequent and severe periods of drought. While remaining customized according to local conditions, the updated requirements shall also create common statewide standards so that these plans can be quickly utilized during this and any future droughts.
9. The Department shall consult with urban water suppliers, local governments, environmental groups, and other partners to update requirements for Water Shortage Contingency Plans. The updated draft requirements shall be publicly released by January 10, 2017.

10. For areas not covered by a Water Shortage Contingency Plan, the Department shall work with counties to facilitate improved drought planning for small water suppliers and rural communities.

## **IMPROVE AGRICULTURAL WATER USE EFFICIENCY AND DROUGHT PLANNING**

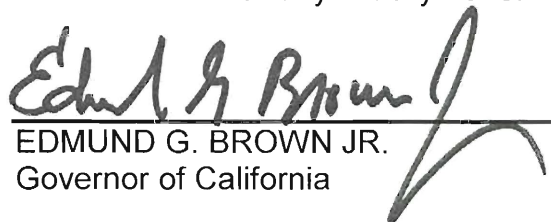
11. The Department shall work with the California Department of Food and Agriculture to update existing requirements for Agricultural Water Management Plans to ensure that these plans identify and quantify measures to increase water efficiency in their service area and to adequately plan for periods of limited water supply.
12. The Department shall permanently require the completion of Agricultural Water Management Plans by water suppliers with over 10,000 irrigated acres of land.
13. The Department, together with the California Department of Food and Agriculture, shall consult with agricultural water suppliers, local governments, agricultural producers, environmental groups, and other partners to update requirements for Agricultural Water Management Plans. The updated draft requirements shall be publicly released by January 10, 2017.

The Department, Water Board and California Public Utilities Commission shall develop methods to ensure compliance with the provisions of this Executive Order, including technical and financial assistance, agency oversight, and, if necessary, enforcement action by the Water Board to address non-compliant water suppliers.

This Executive 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.

**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.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 9th day of May 2016.

  
EDMUND G. BROWN JR.  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State



## TULARE COUNTY – CITY OF PORTERVILLE WELL AGREEMENT

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

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

### ACCORDINGLY, IT IS AGREED:

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

TULARE COUNTY AGREEMENT NO. 27596



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

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

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

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

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

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

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

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

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

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

6. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.
7. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
8. This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. This Agreement is entered into and shall be performed in Tulare County, California. CITY waives the removal provisions of California Code of Civil Procedure Section 394.
9. The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party or either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.
10. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

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

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

COUNTY OF TULARE

BY Mike Ennis  
Mike Ennis Chairman,  
Board of Supervisors



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

By Danisa A. Ybana  
Deputy Clerk

Approved as to Form  
County Counsel

By M. G. Glick for LMT  
Deputy 20151902

CITY OF PORTERVILLE

BY Milt Stowe  
Milt Stowe, Mayor

ATTEST:  
City Clerk of the City of Porterville

BY J. L. Lolis  
John Lolis, City Manager

Approved as to Form

BY [Signature]  
City Attorney

EXHIBIT 'A'



EXHIBIT 'B'



RESOLUTION NO. 74 -2014

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

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

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

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

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

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

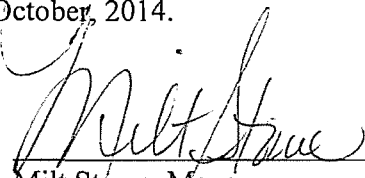
BE IT FURTHER RESOLVED, that the City Council of the City of Porterville does hereby establish the following policies for consideration of annexations and municipal services:

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



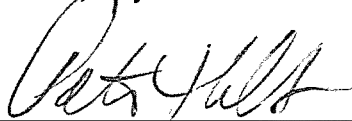
2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville,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

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of October, 2014.

  
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By:   
Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA    )  
CITY OF PORTERVILLE    )       SS  
COUNTY OF TULARE     )

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at regular meeting of the Porterville City Council duly called and held on the 21<sup>st</sup> day of October, 2014.

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

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

JOHN D. LOLLIS, City Clerk

  
By: Luisa M. Zavala, Deputy City Clerk

RESOLUTION 19-2016

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

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

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

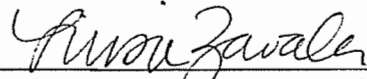
NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby amend existing procedures to submit application for municipal services, and to have said application(s) processed as outlined in Exhibit "A", attached. The exemption identified for the East Porterville Feasibility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

PASSED, APPROVED AND ADOPTED this 19<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

BY   
\_\_\_\_\_  
Luisa Zavala, Deputy City Clerk

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

## **ANNEXATION APPLICATION PROCEDURE**

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

## **ANNEXATION EXEMPTION PROCEDURE**

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

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

## EXTRATERRITORIAL SERVICES APPLICATION PROCEDURE

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

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

Within the Urban Development Boundary:

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

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

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

Within the Urban Area Boundary:

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

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

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

## **EXEMPTIONS AND EXCEPTIONS**

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

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

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

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

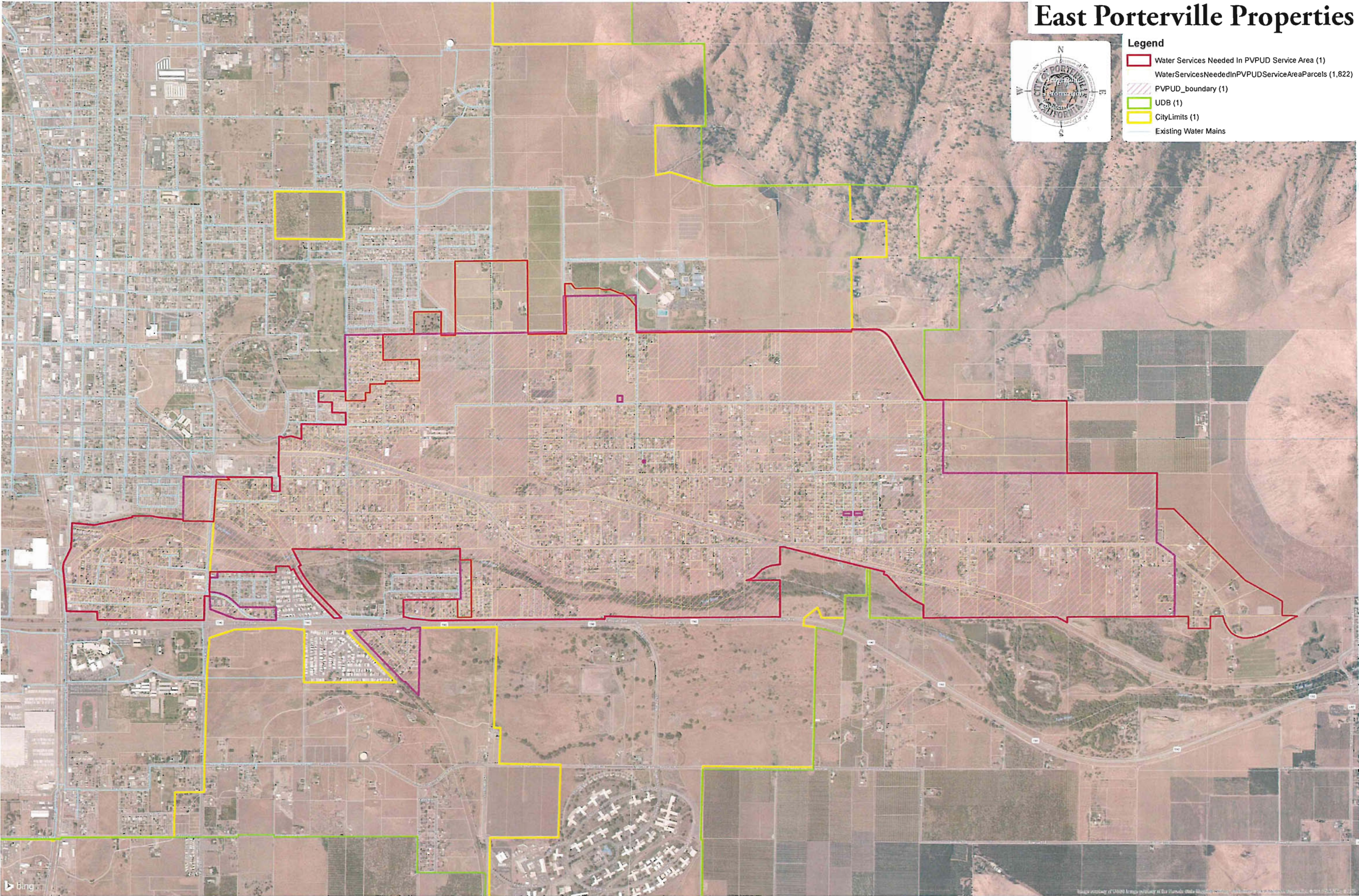
- Rather than require that the subject property be a developed single-family residence on a parcel 24,999 square feet or smaller, neither the land use nor the parcel size would be restricted neither the land use nor the parcel size would be restricted for legal and legal non-conforming structures and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



# East Porterville Properties



- Legend**
- Water Services Needed In PVPUD Service Area (1)
  - WaterServicesNeededInPVPUDServiceAreaParcels (1,822)
  - PVPUD\_boundary (1)
  - UDB (1)
  - CityLimits (1)
  - Existing Water Mains





STATE OF CALIFORNIA )  
CITY OF PORTERVILLE ) SS  
COUNTY OF TULARE )

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at regular meeting of the Porterville City Council duly called and held on the 19<sup>th</sup> day of April, 2016.

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

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

JOHN D. LOLLIS, City Clerk

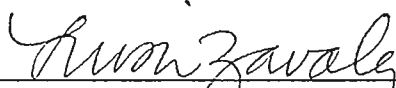
  
By: Luisa Zavala, Deputy City Clerk

EXHIBIT 'C'



EXHIBIT 'D'

### Scope of Work

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

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

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

## **Discussion Draft**

### **Subject to Additional Review and Modification by the Parties**

Porterville MOU  
Draft 2  
June 15, 2016  
PortervilleEmergencyMOU061516



#### **Memorandum of Understanding (MOU)**

Regarding the Provisions of Emergency Water Supplies to East Porterville

by the California Department of Water Resources (DWR), California Office of Emergency

Service (OES), the State Water Resources Control Board (SWRCB),

the County of Tulare (County), and City of Porterville (Porterville),

which are collectively known as the “Parties”

#### **Recitals**

Whereas, some residents living in an unincorporated area of Tulare County, commonly known as “East Porterville,” have experienced loss of adequate water supply to their homes and properties as a result of severe drought conditions, which has caused significant hardship for the residents;

Whereas, Governor Edmund G. Brown Junior has directed all State agencies to assist these residents who are in need of water supplies with emergency and long-term assistance;

Whereas, Governor Edmund G. Brown Junior signed Assembly Bill 685 in 2012, adding Water Code section 106.3, which recognizes that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes, and which requires all relevant state agencies to consider this right when revising, adopting, or establishing pertinent policies, regulations, and grant criteria;

Whereas, the Parties have provided emergency water supplies to some residents of East Porterville that are without an adequate household water supply;

Whereas, the Parties to this MOU seek an emergency and long-term solution to the lack of adequate household water supply by developing and providing continuous water supplies to these residents;

Whereas, East Porterville is located east and adjacent to Porterville, which has an existing municipal water system that serves residents within the incorporated area of Porterville;

Whereas, some of the residents of East Porterville without an adequate household water supply could be connected to Porterville's municipal water system provided certain arrangements and projects are carried out by the Parties;

Whereas, Vandalia is a neighborhood located within Porterville, and some Vandalia residents lack adequate household water supply and these households could be connected to Porterville's municipal water system;

Whereas, the Parties have met and have discussed alternative plans and projects that would provide an emergency water supply from Porterville to some residents of East Porterville and Vandalia in an expeditious manner;

Whereas, to advance these projects, DWR has provided funding, as reflected in the agreement between DWR and Tulare attached as Exhibit 1, for a municipal well designated as "Well C1" located in Tulare County that ultimately could be used to supply water to these residents of East Porterville;

Whereas, the SWRCB has also provided funding for Well C1, as reflected in the agreement between the SWRCB and the County attached as Exhibit 2;

Whereas, the County and Porterville intend to execute an agreement, a draft of which is attached as Exhibit 3, that will connect Well C1 to Porterville's municipal water system and that will provide for an adequate household water supply for some residents of East Porterville; and

Whereas, the Parties have reached an understanding on how best to implement the project alternative that will provide an adequate household water supply to some residents of East Porterville and Vandalia, and alleviate the hardships in an expeditious, cost-effective manner.

## **Understanding**

### **A. Description of Emergency Project and Long-Term Plan**

1. The purpose of this MOU is to set forth in writing the intentions of the Parties of how best to move forward with plans to complete an emergency water supply project (Project) to some residents in the East Porterville and Vandalia areas, which are represented in Exhibit 4. (Map showing East Porterville and Porterville). The goal of the Project is to provide an adequate household water supply to some of the residents and properties in these areas that do not have one presently, and to end the need of the Parties to provide temporary water supplies to those residents through tanks and bottles.

2. The Parties intend to develop the Project in two phases. Phase 1 will make municipal water connections to the properties in East Porterville that have dry wells and are adjacent to Porterville's existing municipal water distribution system. It is estimated that this phase will serve 40 properties with dry wells that are currently receiving temporary household water supplies.

3. The Parties intend that Phase 2 of the Project will provide municipal water supply to approximately 500 properties in East Porterville and in Vandalia that have dry wells or otherwise lack an adequate source of water and have not been connected by Phase 1. In order to complete Phase 2, the residents of these properties will likewise need to connect to Porterville's municipal water system.

4. As soon as possible, Porterville and DWR will undertake Phase 1 of the Project and connect the properties in East Porterville that are adjacent to Porterville's existing municipal water distribution system. These connections will be accomplished as described in Water Installation Diagram attached as Exhibit 5 and based on the cost estimate, which is attached as Exhibit 6. In order to make these connections, a property owner desiring to receive public water supply will need to execute the Extraterritorial Service Agreement, a sample of which is attached as Exhibit 7, and the SWRCB's Water Connection Agreement, a sample of which is attached as Exhibit 8. Necessary signatures and agreements with property owners will be sought through SWRCB's outreach carried out with the assistance of all Parties to this MOU.

5. The Parties intend that Well C1 will be used to provide the emergency water supply in Phase 2 to about 500 properties without adequate household water supplies. The Parties presently understand that there are about 423 properties in East Porterville and approximately 80 properties in Vandalia where connections may be needed to provide emergency water supplies.

6. The Parties have created a Technical Workgroup consisting of engineers and planners, which work cooperatively on the technical issues described in this MOU. Based on recommendations of the Technical Workgroup, the Parties intend to provide the emergency water supply contemplated by this MOU.

7. The Parties intend to develop a Long-Term Water System Plan (Long-Term Plan) for the East Porterville area, which will serve other residents in the area besides those served by the Project. The Parties intend that the Project will be designed consistent with the Long-Term Plan to ensure that all water facilities constructed as part of the Project will be incorporated into the facilities ultimately developed through the Long-Term Plan. The first work product produced by the Technical Workgroup will be a Feasibility Study for the Long-Term Plan. The outline of the Feasibility Study is attached as Exhibit 9.

8. The Parties intend to use best efforts to complete both phases of the Project by December 31, 2016. The completion date of the Long-Term Plan is dependent on the completion of the Feasibility Study carried out by Technical Workgroup and on Porterville and/or the County applying for and securing sufficient funding from the SWRCB or from other sources. The Parties desire to complete the Long-Term Plan as expeditiously as possible.



## **B. Project Contributions of the Parties**

9. Working in cooperation with the other Parties and the Technical Workgroup, DWR will prepare all environmental compliance for the Project, and design and construct the Project, both Phases 1 and 2. DWR will provide funding for Phases 1 and 2 of the Project through Emergency Drought Funding. DWR intends to serve as California Environmental Quality Act (CEQA) lead agency for the Long-Term Plan and will prepare any necessary CEQA documentation and any other necessary environmental review documents, unless the Feasibility Study recommends another lead agency.

10. SWRCB will provide the community outreach to assist in obtaining necessary property owner acceptance before proceeding with Project. SWRCB will also work with Porterville and/or County to secure funding of the Long-Term Plan. SWRCB will provide certain reviews and approvals for the permitting of the Project and the Long-Term Plan.

11. OES will coordinate all of the State's efforts under the Governor's Drought Task Force in the Project area and will be provided at no cost by Porterville up to 3,000,000 gallons of emergency water per month as needed as a result of this MOU and the agreement that Porterville and the County are in the process of considering for execution, a draft of which is attached as Exhibit 3, with regard to the Well C1.

12. Porterville will provide the needed water service to the residents of East Porterville without an adequate household water supply after they are connected to Porterville's municipal water system as described in the Project. The water service will be accomplished per the Extraterritorial Service Agreement, which requires that property owners served pay the monthly water bill. DWR is funding the residents' connection to the Project, and as a result, some of the normal connection fees will be waived provided that connection is made during Phase 1 or Phase 2. Porterville will install the water meters for each connection, which will be paid for by DWR.

13. The County intends to execute an agreement with Porterville that is consistent with this MOU and Exhibit 3, which will allow Well C1 to serve as a water supply for the Project. The County will inspect the work of the Project and the property connections at no cost to the residents.

14. The Parties to the MOU will cause the removal of all temporary water tanks from the properties upon completion of the Project and the appurtenances necessary for the receipt of municipal water service. The work for removing the water tanks will be carried out by the County under an agreement between the County and OES.

## **C. General Provisions**

15. The Parties intend to use their best efforts to carry out this MOU. This MOU is not a binding agreement, and is not intended to create contractual rights and remedies among the Parties. However, the Parties have entered into and intend to enter into certain binding agreements in the future necessary to develop and complete the Project and the Long-Term Plan.

16. This MOU will become effective upon the signature of the all Parties. The MOU will terminate on December 31, 2016, unless extended by all of the Parties in writing.

[Signatures on following page]

This MOU has been executed by:

California Department of Water Resources

State Water Resources Control Board

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California Office of Emergency Services

County of Tulare

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City of Porterville

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### List of Exhibits

1. DWR and Tulare County Executed Well C1 Agreement
2. SWRCB and County Executed Well C1 Agreement (Water Board Grant #D-15-11-902)
3. County and Porterville Draft Well Agreement
4. Map of East Porterville
5. Household Water Service Installation Diagram
6. Household Water Service Cost Estimate
7. Sample Extraterritorial Service Agreement
8. Sample SWRCB Water Connection Agreement
9. Draft Emergency Project Feasibility Study



Amendment No. 1

To the East Porterville Water Supply Project

Memorandum of Understanding (MOU)

Regarding the Provisions of Emergency Water Supplies to East Porterville  
by the California Department of Water Resources (DWR), California Office of  
Emergency Service (OES), the State Water Resources Control Board (SWRCB),  
the County of Tulare (County), and City of Porterville (Porterville),  
which are collectively known as the "Parties"

This Amendment No.1 to the MOU is made this 7<sup>th</sup> day of November, 2016. As described below, this Amendment No.1 recognizes the MOU is still in effect, modifies certain sections of this MOU, and adds new sections to the MOU.

**Recitals**

Whereas, some residents living in an unincorporated area of Tulare County, commonly known as "East Porterville," have experienced loss of adequate water supply to their homes and properties as a result of severe drought conditions, which has caused significant hardship for the residents;

Whereas, Governor Edmund G. Brown Junior has directed all State agencies to assist these residents who are in need of water supplies with emergency and long-term assistance;

Whereas, the Parties to this MOU seek an emergency and long-term solution to the lack of adequate household water supply by developing and providing continuous water supplies to these residents;

Whereas, to advance these projects, DWR and the SWRCB have provided funding, as reflected in Exhibits 1 and 2, for a municipal well designated as "Well C1" located in Tulare County that ultimately could be used to supply water to these residents of East Porterville;

Whereas, the Parties have reached an understanding on how best to implement the project alternative that will provide an adequate household water supply to some residents of East Porterville and Vandalia, and alleviate the hardships in an expeditious, cost-effective manner:

Whereas, the purpose of this amendment is to clarify some sections of the MOU and to add several new sections.

NOW THEREFORE, IT IS MUTUALLY AGREED that the following changes are hereby made to the MOU:

1. Section A (2) is amended to read as follows:

The Parties intend to develop the Project in two phases. Phase 1 will make municipal water connections to the properties in East Porterville and Vandalia that have dry wells and/or water tanks. It is estimated that this phase will serve approximately 300 properties.

2. Section A (3) is amended to read as follows:

The Parties intend that Phase 2 of the Project will provide municipal water supply to approximately 800 properties in East Porterville by connecting them to the City of Porterville's water system. The total number of homes eligible for this Project is approximately 1,100.

3. Section A (5) is amended to read as follows:

The Parties intend that Well C1 will be used to provide the initial water supply. The Parties acknowledge the delay in Well C1 completion. To mitigate the effects of this on the residents of East Porterville, the City of Porterville will allow connections of homes as they become prepared for connection. These early connections will be beyond the initial 70 connections (previously 40 connections) agreed to, given the availability of capacity during the winter months. However, these additional connections to the City's water system will cease on March 1, 2017, if Well C1's connection to the City's water system is not completed by then.

4. Sections A (7) b-f shall be added and made part of this MOU:

7 (a). The Parties intend to develop a Long-Term Water System Plan (Long-Term Plan) for the East Porterville area, which will serve other residents in the area besides those served by the Project. The Parties intend that the Project will be designed consistent with the Long-Term Plan to ensure that all water facilities constructed as part of the Project will be incorporated into the facilities ultimately developed through the Long-Term Plan. The first work product produced by the Technical Workgroup will be a Feasibility Study for the Long-Term Plan. The outline of the Feasibility Study is attached as Exhibit 9.

(b). The East Porterville Water Supply Project Hydraulic Analysis Report ("Hydraulic Analysis Report," which is attached as Exhibit 10) determined that the water supply capacity required to serve all eligible residents of East Porterville is 1,435 gallons per minute (gpm). This capacity shall be based on the sustainable yield of the wells which is defined as 75 percent of the initial design capacity. Since Well C1 has a sustainable yield of 600 gpm, the Parties agree that the State will fund the construction and equipping of additional wells to provide the 835 gpm shortfall.

(c). Based on the Hydraulic Analysis, a 700,000 gallon water storage tank is required to serve the residents of East Porterville. However, based on Porterville's master plan recommendations, a 1.2 million-gallon storage tank is required for the City's buildout. The Parties therefore intend to construct a 1.2 million-gallon storage tank with cost sharing between the State and the City. The State will fund the cost of a 700,000 gallon tank required for the Project and the City of Porterville will fund the cost of the additional 500,000 gallons of storage required for the City's future use as contained in its master plan. The cost-sharing shall be proportional to the tank capacity being funded.

(d). The Parties intend to upgrade the existing Henderson-Plano Booster Pump Station and the Granite Hills Intertie which would facilitate water supply to the East Pressure Zone which serves East Porterville. The State will fund the construction of one booster pump rated at 2,100

gpm along with a variable frequency drive and the Granite Hills Intertie. The City will fund the replacement of its two existing pumps along with associated variable frequency drives as part of Phase 2 of the Project. These two pumps are more than 30-years old and their replacement will enable the City's water system to operate more efficiently and in a cost-saving manner.

(e). The Parties further agree that a booster pump station of capacity 1,670 gpm is required to convey water from the West Pressure Zone, where the new wells will be located, to the Central Pressure Zone for onward conveyance to East Porterville. The State will fund the construction of this booster pump station.

(f). Given that Well C1 has an estimated sustainable yield of 600 gpm, as well as a unit demand of 0.833 gpm per home connection based on the Hydraulic Analysis , Well C1 could effectively serve up to 720 households . The Parties agree that home connections for Phase 2 of the Project can begin as soon as Well C1 is connected to the City's water system, and the Henderson-Plano Booster Pump Station upgrade and the Granite Hills Intertie are completed. These home connections shall cease when the capacity of Well C1 is exceeded. Thereafter, additional home connections will be made after the construction of additional wells or if City staff determines that the water system can support additional home connections.

5. Section (C) 16 is amended to read as follows:

16. This MOU will become effective upon the signature of the all Parties. The MOU will terminate on June 30, 2018, unless extended by all Parties in writing.

6. The list of the Exhibits at the end of MOU is amended to read as follows:

1. DWR and Tulare County Executed Well C1 Agreement
2. SWRCB and County Executed Well C1 Agreement (Water Board Grant #D-15-11-902)
3. County and Porterville Draft Well Agreement
4. Map of East Porterville
5. Household Water Service Installation Diagram
6. Household Water Service Cost Estimate
7. Sample Extraterritorial Service Agreement
8. Sample SWRCB Water Connection Agreement
9. Draft Feasibility Study for the Long-Term Plan
10. East Porterville Water Supply Project Hydraulic Analysis Report

This MOU has been executed by:

California Department of Water Resources

State Water Resources Control Board

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California Office of Emergency Services

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County of Tulare

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City of Porterville

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