



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

The City of Porterville is allowing for and encouraging electronic participation at City Council Meetings. Porterville City Council Meetings will be live streamed on YouTube at <https://www.youtube.com/channel/UC5KuhSrNMNL9nwHJVtnJvvA>

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

Topic: City of Porterville – City Council Meeting of May 16, 2023

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/82629411102?pwd=cGNOK0tvOVZkc1V2ZlcTAzUUZGUT09>

Or via Telephone: **1-669-900-6833** Webinar ID: **826 2941 1102** Passcode: **256568**

Call to Order

Roll Call

ORAL COMMUNICATIONS

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

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

- 1** - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Patrice Hildreth. Employee Organizations: Porterville City Employees Association and Management and Confidential Series.
- 2** - Government Code Section 54956.95 – Liability Claim: Claimant: Reginaldo Cornejo. Agency claimed against: City of Porterville.
- 3** - Government Code Section 54956.95 – Liability Claim: Claimant: Stephanie Navarrete. Agency claimed against: City of Porterville.
- 4** - Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Four (4) cases in which facts are not yet known to potential plaintiff.
- 5** - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two (2) cases.
- 6** - Government Code Section 54957 - Threat to Public Services or Facilities: Consultation with Jake Castellow, Porterville EOC Incident Commander.

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

Pledge of Allegiance Led by Vice Mayor Carrillo

Invocation

ORAL COMMUNICATIONS

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

REPORTS

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

- I. City Commission and Committee Meetings
 1. Parks & Leisure Services Commission - May 4, 2023
 2. Library & Literacy Commission - May 9, 2023
 3. Arts Commission - April 25, 2023
 4. Animal Control Commission - May 11, 2023
 5. Youth Commission - May 10, 2023
 6. Transactions and Use Tax Oversight Committee (TUTOC)
- II. Staff Informational Reports
 1. Water Conservation Phase IV Status Update - April 2023

CONSENT CALENDAR

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

1. **City Council Minutes of April 14, 2023, and May 02, 2023.**
Re: Considering approval of the City Council Meeting draft Minutes of April 14, 2023, and May 02, 2023.
2. **Purchase of Personal Protective Equipment**
Re: Consideration to approve the purchase of two sets of turnouts from Curtis at a not to exceed cost of \$7,974.81.
3. **Authorization to Advertise for Bids - Main Street Reconstruction Project (Putnam Avenue to Morton Avenue)**
Re: Consideration to approve staff's recommended Plans and Project Manual for the Main Street Reconstruction Project located between Putnam Avenue and Morton Avenue; and authorize staff to advertise for bids on the project.

4. **Authorization to Distribute Request for Qualifications - Emergency Operations Center & Public Safety Headquarters**
Re: Consideration to authorize staff to distribute Design Services Request for Qualifications for the Emergency Operations Center & Public Safety Headquarters located at 41 W. Thurman Ave.
5. **Authorization to Award Freedom Fest Fireworks Contract**
Re: Consideration to authorize progress payments up to one hundred percent (100%) of the contract amount of \$25,000 to Zambelli Fireworks.
6. **Authorization to Apply and Receive Financing for the Consolidation of Del Oro Water Company**
Re: Consideration to authorize the application to receive financing from the California State Water Resources Control Board for planning, design, and construction of the Grandview Gardens and East Plano consolidation.
7. **Approval of State Senate Bill 1 (SB1) Project List for Fiscal Year 2023-2024**
Re: Consideration to adopt the draft Resolution for the SB1 project list for Fiscal Year 2023-2024; authorize the City Clerk to record the attached draft Resolution; and authorize staff to submit the project list package to the California Transportation Commission to secure the City's FY 2023-2024 RMRA apportionment.
8. **Consideration of Funding Recommendations and Reopening Request for Proposals for 2021 Permanent Local Housing Allocation (PLHA)**
Re: Consideration to award Turning Point of Central California \$154,234.50 for the Navigation Center, \$154,234.50 for Emergency Housing, and \$67,950.00 for permanent supportive housing (PSH); and award Central California Family Crisis Center \$153,163.00 for operational support for emergency housing; and authorize staff to reopen RFP for the remaining \$52,701.50 for PSH program operations.
9. **A Resolution Approving the Application for State Off-Highway Vehicle Grant Funds**
Re: Consideration to adopt a draft Resolution approving the application for State Off-Highway Vehicle grant funds in the amount of \$1,730,535, of which \$730,535 would be a local match.
10. **Authorization of Street Closures for KJUG Free Summer Concert Series**
Re: Consideration to authorize the street closures for the KJUG Concerts on May 24, 2023, June 6 or 7, 2023, and June 21, 2023.
11. **Authorization of Street Closure for Military Banner Ceremony**
Re: Consideration to authorize the temporary closure of Main Street between Thurman Avenue and Cleveland Avenue for the Military Banner Ceremony on Friday, May 26, 2023, between the hours of 9:00 a.m. and 3:00 p.m.
12. **Parks and Leisure Services Commission Meetings**
Re: Consideration to approve the Parks and Leisure Services Commission's request for a hiatus during the months of July and August 2023, with the Commission being available to meet if necessary.
13. **Cancellation of Public Hearing to Consider Annexation**
Re: Consideration to cancel the Public Hearing previously scheduled for the consideration of the annexation of APNs 261-015-013, 261-015-015, and 261-015-016.

- 14. Rescinding and Replacing Resolution No. 16-2023 Concerning Class A Driver's License Incentive Pay**
Re: Consideration of rescinding and replacing Resolution No. 16-2023 regarding incentive pay for employees in certain classifications for attaining and retaining a Class A Driver's License.
- 15. Cancellation of July 4, 2023, City Council Meeting**
Re: Consider cancellation of the first Council Meeting in July due to the Independence Day holiday.
- 16. Status and Review of Local Drought Emergency**
Re: Considering approval of the continuance of the Declaration of Local Emergency.

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

PUBLIC HEARINGS

- 17. Public Hearing to Consider the Transition to Phase III of the City's Water Conservation Plan**
Re: Consideration of the transition from Phase IV to Phase III of the City's Water Conservation Plan.

SCHEDULED MATTERS

- 18. Consider Resolutions of Opposition to Assembly Bill 1090 (Jones-Sawyer) and State Senate Bill 94 (Cortese)**
Re: Consideration of Resolutions of Opposition to Assembly Bill 1090 (Jones-Sawyer) and Senate Bill 94 (Cortese).
- 19. Bid Results - Tule River Parkway, Phase 3 Project**
Re: Consideration to award the Tule River Parkway, Phase 3 Project located along the Tule River between Main and Plano Streets, to American Paving Co. in the amount of \$2,536,720; plus ten percent (10%) contingency, and an additional \$1,091,564 in Local Transportation Funds.
- 20. Status and Review of Declaration of Local Flood Emergency**
Re: Review of the Declaration of Local Emergency made on March 13, 2023, concerning the significant weather event and impacts or likely impacts relative to increased flow of the Tule River; and consider the draft License Agreement for the City's exclusive use of the Porterville Army National Guard Armory for one (1) year, from May 5, 2023 to May 4, 2024.

AB 1234 REPORTS

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

1. Military Banner Program Committee - April 25, 2023
2. Local Initiatives Navigation Center (LINC) Committee - May 3, 2023
3. Easter Tule Groundwater Sustainability Agency (ETGSA) - May 4, 2023
4. Tulare County Water Commission - May 8, 2023

5. Tulare County Association of Governments One Voice Trip to Washington DC - May 9-12, 2023
6. Social Services Transportation Advisory Council - May 9, 2023
7. Transit Forum - May 10, 2023
8. CalVans Board - May 11, 2023
9. Tulare County Economic Development Corporation Board - May 11, 2023
10. Tulare County Association of Governments (TCAG)/ Tulare County Transportation Authority (TCTA) Board - May 15, 2023
11. Tulare County Regional Transit Authority (TCRTA) - May 15, 2023

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

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

ADJOURNMENT - to the meeting of June 6, 2023, at 5:30 p.m.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.



CITY COUNCIL AGENDA – MAY 16, 2023

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

SOURCE: Public Works

COMMENT: The City has continued to implement an active water conservation approach, conserving and providing flexibility to the community. The City transitioned from Phase III to Phase IV of the City's Water Conservation Plan as of October 1, 2022. The Water Conservation Plan applies to all municipal water users within or outside the city limits.

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

Effective October 1, 2022, the City transitioned to Phase IV of its Water Conservation Plan. The Phase IV plan limits outdoor watering to one day per week, with "odd" addresses allowed to water on Saturday and "even" addresses allowed to water on Sunday. Outdoor watering is prohibited between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m., with no watering allowed Monday through Friday. Watering outdoor landscaping is prohibited during and within forty-eight (48) hours after measurable rainfall, which is now defined as greater than 0.01 inch.

Violations of prohibited activities are considered infractions and are punishable by fines of up to \$500 for each day the violation occurs. Any peace officer or employee of a public agency charged with enforcing laws and authorized to do so by ordinance may issue a citation to the violator. The City will respond to enforcement by issuing a Notice of Violation for all witnessed occurrences, and staff will process all reported issues. Enforcement statistics for April 2023 show that ten (10) notices of violations were issued for water wasting, and no administrative citations were issued.

Water production for April 2023 reflects a nineteen percent (19%) decrease from the 5-year average. The monthly production for April was 198 million gallons, which is a thirty-nine percent (39%) decrease compared to April 2013 at 325 million gallons. Residential consumption for April 2023 was seventy-six (76) gallons per capita per day (GPCD).

Compliance with individual water supplier conservation requirements is based on cumulative savings. Cumulative tracking means that conservation savings will be added together from one month to the next and compared to the amount

of water used during the same months in 2013. City Staff will evaluate conservation totals in two formats: 1) Calculate the cumulative conservation totals for production as compared to production in 2013, and 2) Calculate cumulative conservation totals in relation to GPCD in efforts to evaluate population growth impacts on production as compared to 2013. The cumulative total production for the City of Porterville's conservation efforts will be reflected from June 2015 through April 2023. Porterville's cumulative total production conservation through April 2023 is twenty (20%). The cumulative total of GPCD for the City of Porterville's conservation efforts will be reflected from June 2015 through April 2023. Porterville's cumulative total GPCD conservation through April 2023 is twenty-five percent (25%).

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

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

RECOMMENDATION: Information Only

ATTACHMENTS: 1. Monthly Production Status April 2023

2. Monthly Production Status GPCD April 2023
3. Drought Response Phase IV Flyer

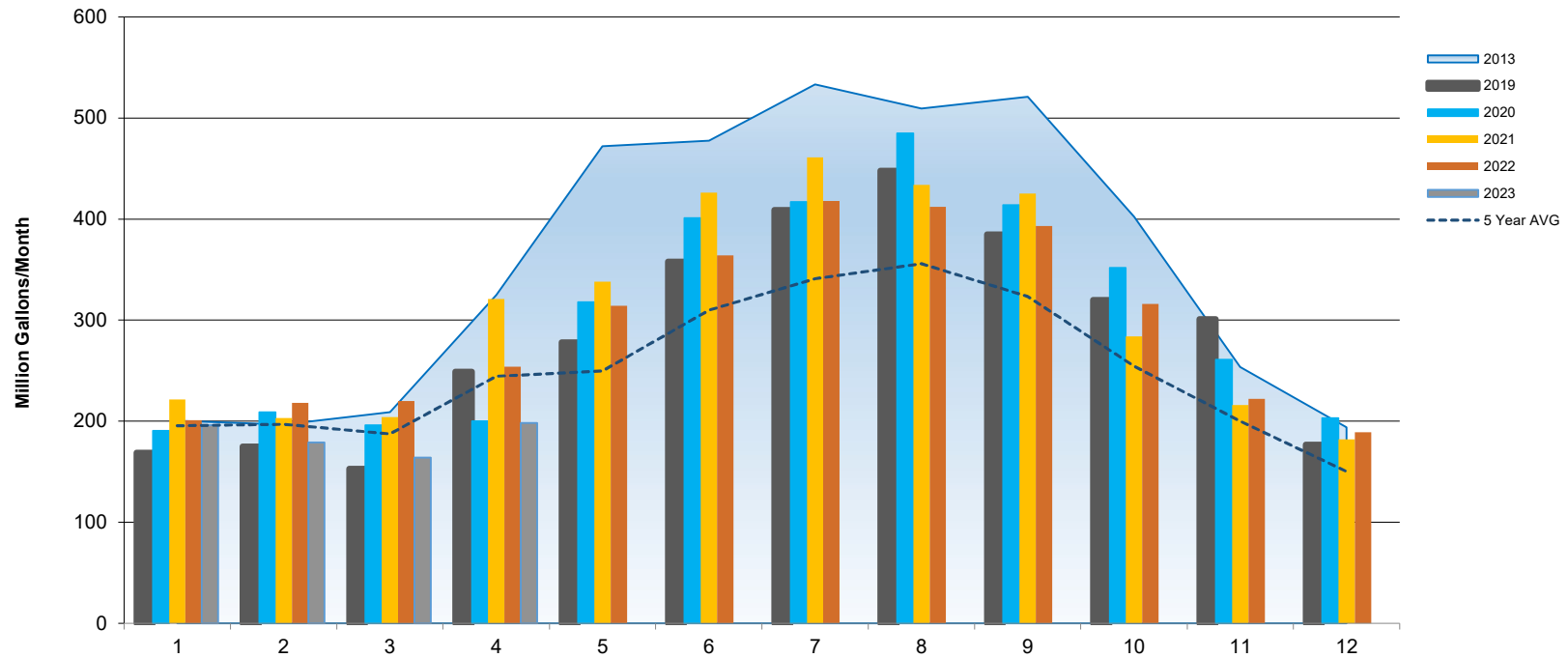
Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

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

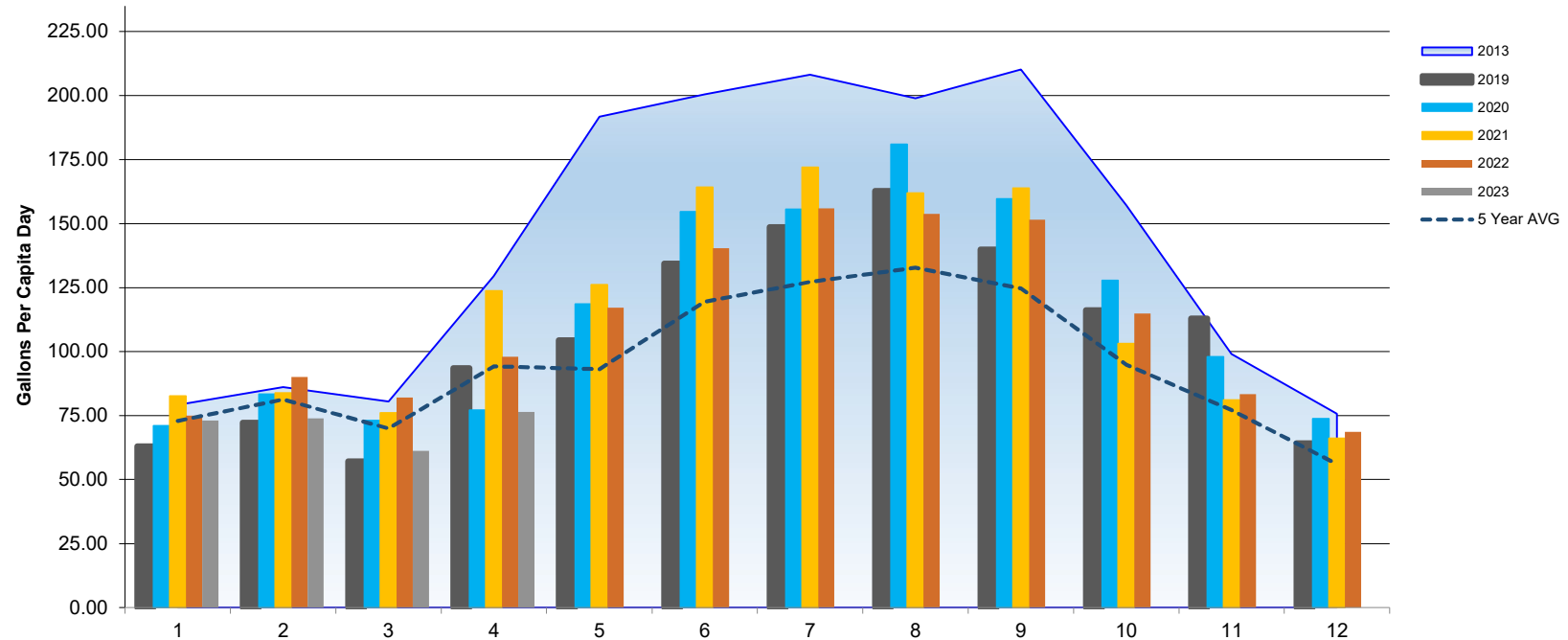


Production Cumulative Total 20%

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

Percent Comparison to 2013 Production

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




GPCD

Cumulative Total 25%

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

Percent Comparison to 2013 Production



DROUGHT RESPONSE Phase IV

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

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

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

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

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

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

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

DROUGHT RESPONSE PHASE IV

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

Mandatory Odd/Even Watering Schedule

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

- Odd Address
- Even Address
- Outdoor Watering is Prohibited

ODD NUMBER ADDRESSES

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

OR

EVEN NUMBER ADDRESSES

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

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

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**

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

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

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

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

**NO WATERING
MONDAY THROUGH
FRIDAY.**



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: City Council Minutes of April 14, 2023, and May 02, 2023.

SOURCE: Administrative Services

COMMENT: Staff has prepared the draft minutes for April 14, 2023, and May 02, 2023.

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

ATTACHMENTS:

1. 2023-04-14 Draft Minutes
2. 2023-05-02 Draft Minutes

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: Patrice Hildreth, Deputy City Manager

**MINUTES
SPECIAL CITY COUNCIL MEETING
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
APRIL 14, 2023, 11:00 AM**

Call to Order at 11:00 a.m.

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

The Pledge of Allegiance was led by Council Member Meister.

Invocation – a moment of silence was observed.

ORAL COMMUNICATIONS

None.

SCHEDULED MATTERS

1. CONSIDERATION OF LICENSE TO USE STATE MILITARY PROPERTY

Recommendation: That the City Council approve the draft license to use State Military Property between the City and the California Military Department for the use of the Porterville Army National Guard Armory as a temporary evacuation point and shelter.

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

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Vice Mayor Carrillo that the City Council approve the draft license to use State Military Property between the City and the California Military Department for the use of the Porterville Army National Guard Armory as a temporary evacuation point and shelter located at 29 N. Plano Street. The motion carried unanimously.

Documentation: M.O. 01-041423

Disposition: Approved.

ADJOURNMENT

The Council adjourned at 11:55 a.m. to the meeting of April 18, 2023, at 5: 30 p.m.

Fernando Gabriel-Moraga, Deputy City Clerk

SEAL

Martha A. Flores, Mayor

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
MAY 2, 2023, 5:30 PM**

Call to Order at 5:30 p.m.

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

ORAL COMMUNICATIONS

None.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

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

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

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

4 - Government Code Section 54956.95 – Liability Claim: Claimant: Michael McElhaney. Agency Claimed Against: City of Porterville.

5 - Government Code Section 54956.95 – Liability Claim: Claimant: Jaime Martinez. Agency Claimed Against: City of Porterville.

6 - Government Code Section 54956.95 – Liability Claim: Claimant: Daniella Swanson. Agency Claimed Against: City of Porterville.

7 - Government Code Section 54956.95 – Liability Claim: Claimant: Brandon Wilson. Agency Claimed Against: City of Porterville.

8 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Rae Dean Strawn v. Bruce Sokoloff et al., U.S. District Court, Eastern District, Case No. 1:22-CV-1245-AWIEPG.

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

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

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

**6:37 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION
TAKEN IN CLOSED SESSION**

City Attorney Lew reported action pertaining to A-2, A-3, A-4, A-5, A-6, and A-7, as follows:

A-2. On a MOTION made by Council Member Beltran, and SECONDED by Vice Mayor Carrillo the City Council unanimously denied the claim filed by Josephina Garcia.

Documentation: M.O. 01-050223

Disposition: Claim denied.

A-3. On a MOTION made by Council Member Beltran, and SECONDED by Vice Mayor Carrillo the City Council unanimously denied the claim filed by Efrain Garcia.

Documentation: M.O. 02-050223

Disposition: Claim denied.

A-4. On a MOTION made by Council Member Beltran, and SECONDED by Vice Mayor Carrillo the City Council unanimously denied the claim filed by Michael McElhaney.

Documentation: M.O. 03-050223

Disposition: Claim denied.

A-5. On a MOTION made by Council Member Meister, and SECONDED by Council Member Beltran the City Council unanimously denied the claim filed by Jaime Martinez.

Documentation: M.O. 04-050223

Disposition: Claim denied.

A-6. On a MOTION made by Council Member Weyhrauch, and SECONDED by Council Member Beltran the City Council unanimously denied the claim filed by Daniella Swanson.

Documentation: M.O. 05-050223

Disposition: Claim denied.

A-7. On a MOTION made by Council Member Meister, and SECONDED by Mayor Flores the City Council unanimously denied the claim filed by Brandon Wilson.

Documentation: M.O. 06-050223

Disposition: Claim denied.

The Pledge of Allegiance was led by Council Member Weyhrauch

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

PRESENTATIONS

Public Works Flood Fighters

Presentation of Audit for Fiscal Year 2021-2022 - Jeffrey Peek, CPA, CliftonLarsonAllen, LLP

ORAL COMMUNICATIONS

- Brock Neeley, Porterville, spoke in favor of AB 1090 and SB 94 and provided the Council with information.
- Yolanda Bocanegra, Flag Day Committee Representative, stated that the annual Flag Day Ceremony is at risk of not being able to continue due to lack of interest, leadership, and physical and monetary donations, and requested the City's assistance.
- Josh Flowers, Strathmore, stated that he hopes Council will take a serious stance in addressing the ongoing homeless situation in the city.
- Sergio Gonzalez, Porterville, voiced concerns regarding the Santa Fe Railroad.
- Kristy Martin, Porterville Chamber of Commerce, shared updates on upcoming events such the ribbon cutting for RWM Home Loans, First Friday Coffee sponsored by ITC, ribbon cutting for the Eagle Mountain Casino, Buisness After Hours at Valley Strong; and recognized City of Porterville Development Assosciate Alida Verduczo as their Ambassador of the Month.
- Gail Nuckols, Porterville, voiced concerns regarding water usage in the area of Westwood across from the casino.
- Ed McKervery, Porterville, voiced opposition to AB 1090 and SB 94, stating law and order needed to be restored in the city.
- Bob Nuckols, Portervillle, spoke of unsafe road conditions in the area of the Sports Complex.
- Adonis Nuckols (via teleconference), Porterville, voiced concern with residents parking on Scranton Road along the Sports Complex.

REPORTS

I. Staff Informational Reports

1. Charitable Car Washes Quarterly Report Calendar Year 2023
2. Code Enforcement Quarterly Report FY 2022-2023 (January - March 2023)
3. Street Performance Measure Quarterly Report FY 2022-2023 (January - March 2023)
4. Building Permit Activity Quarterly Report FY 2022-2023 (January - March 2023)
5. Ohv Park Quarterly Report FY 2022-2023 (January - March 2023)
6. Golf Course Quarterly Report FY 2022-2023 (January - March 2023)
7. City Commission And Committee Attendance Quarterly Report FY 2022-2023 (January - March 2023)
8. City Council Member Appointments Attendance Quarterly Report FY 2022-23 (January - March 2023)

CONSENT CALENDAR

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

1. CITY COUNCIL MINUTES OF NOVEMBER 15, 2022, AND APRIL 18, 2023.

Recommendation: That the Council approve the draft Minutes of November 15, 2022, and April 18, 2023.

Documentation: M.O. 07-050223

Disposition: Approved.

2. PURCHASE OF A POLICE ALL TERRAIN VEHICLE

Recommendation: That the City Council authorize staff to purchase a Polaris Ranger Crew XP1000 in the amount of \$44,971.49 plus the applicable sales tax, from Polaris Government and Defense Sales.

Documentation: M.O. 08-050223

Disposition: Approved.

3. PURCHASE OF A PUBLIC SAFETY FACILITY WELLNESS DOG

Recommendation: That the City Council:

1. Approve the purchase of a new Public Safety Facility Wellness Dog and related training from Top Dog Training Center for the amount of \$15,750 (plus tax), and
2. Authorize the Chief of Police to enter into an agreement with Top Dog Training Center to acquire said service dog and training.

Documentation: M.O. 09-050223

Disposition: Approved.

4. AUTHORIZATION TO PURCHASE SPECIALIZED EQUIPMENT –
ELECTRIC BLOWER BYPASS VALVE

Recommendation: That the City Council:

1. Authorize the purchase of a new electric blower bypass valve for a not-to-exceed amount of \$26,074 which includes taxes, shipping and a ten percent (10%) contingency from Kaeser Compressors;
2. Direct the Finance Director to initiate a Purchase Order to Kaeser Compressors for a not-to-exceed amount of \$26,074 which includes taxes, freight and a ten percent (10%) contingency;
3. Direct the Finance Director to make payment to Kaeser Compressors upon receipt of an invoice approved by the Public Works Director.

Documentation: M.O. 10-050223

Disposition: Approved.

5. AUTHORIZATION TO NEGOTIATE CONSULTANT AGREEMENT - PARKS MASTER PLAN

Recommendation: That the City Council authorize staff to negotiate a scope of services and contract with QK, Inc.

Documentation: M.O. 11-050223

Disposition: Approved.

6. ACCEPTANCE OF FINAL SUBDIVISION MAP - THE VILLAS AT SIERRA MEADOWS, PHASE 3 (SMEE HOMES, INC.)

Recommendation: That the City Council:

1. Approve the final subdivision map of The Villas at Sierra Meadows, Phase 3;
2. Accept all offers of dedication shown on the final map or by separate deed document; and
3. Authorize the City Clerk to file said map with the County Recorder.

Documentation: M.O. 12-050223

Disposition: Approved.

7. CONSIDERATION OF REFUSE ENCLOSURE & PARKING STALL CONSTRUCTION/INSTALLATION AND USE AGREEMENT BETWEEN CITY OF PORTERVILLE AND SEQUOIA IMAGING GROUP LLC DBA CALIFORNIA MEDICAL IMAGING CENTER

Recommendation: That the City Council

1. Approve the Refuse Enclosure and Parking Stall Construction/Installation and Use Agreement Between the City of Porterville and Sequoia Imaging Group LLC dba California Medical Imaging; and

2. Authorize the Mayor to sign the agreement.

Documentation: M.O. 13-050223

Disposition: Approved.

8. APPROVAL OF AIRPORT LEASE AGREEMENT - LOT NO. 8

Recommendation: That the City Council:

1. Approve the Lease Agreement for Lot No. 8 at the Porterville Municipal Airport between the City of Porterville and REACH Air Medical Services, LLC; and
2. Authorize the Mayor to sign the Lease Agreement on behalf of the City.

Documentation: M.O. 14-050223

Disposition: Approved.

9. INTENT TO SET A PUBLIC HEARING TO TRANSITION TO PHASE III OF THE CITY'S WATER CONSERVATION PLAN

Recommendation: That the City Council direct the City Clerk to notice a Public Hearing to discuss the transition from Phase IV to Phase III of the City's Water Conservation Plan at its meeting on May 17, 2023.

Documentation: M.O. 15-050223

Disposition: Approved.

10. FINANCIAL STATUS REPORTS

Recommendation: That the City Council accept the Financial Status Reports as presented.

Documentation: M.O. 16-050223

Disposition: Approved.

11. QUARTERLY INVESTMENT PORTFOLIO

Recommendation: That the City Council accept the quarterly Investment Portfolio Summary Report.

Documentation: M.O. 17-050223

Disposition: Approved.

12. COMMUNITY CIVIC EVENT - TULARE COUNTY JUNIOR LIVESTOCK SHOW AND COMMUNITY FAIR - PORTERVILLE FAIR - MAY 17-21, 2023

Recommendation: That the City Council approve the Community Civic Event application from the Tulare County Jr. Livestock Show and Community Fair, to hold the Porterville Fair from May 17 to May 21, 2023, subject to the restrictions and requirements contained in the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

Documentation: M.O. 18-050223

Disposition: Approved.

13. COMMUNITY CIVIC EVENT - PORTERVILLE AREA COORDINATING COUNCIL - SPORTS CUTS BARBER BATTLE - MAY 7, 2023

Recommendation: That the City Council approve the Community Civic Event application from the Porterville Area Coordinating Council to hold the Sports Cuts Barber Battle on May 7, 2023, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

Documentation: M.O. 19-050223

Disposition: Approved.

14. AMENDMENT TO EMPLOYEE PAY & BENEFIT PLAN – PORTERVILLE CITY FIREFIGHTERS ASSOCIATION

Recommendation: That the City Council approve the draft Resolution amending the Employee Pay and Benefit Plan pertaining to the Porterville City Firefighters Association employees.

Documentation: Resolution No. 19-2023

Disposition: Approved.

15. RESOLUTION APPROVING ONE-TIME FLOOD FIGHT HAZARD PAY FOR APPLICABLE EXEMPT EMPLOYEES

Recommendation: That the City Council approve the draft resolution approving one-time flood fight hazard pay for applicable employees in Management and Confidential Series and Unrepresented Management Employees.

Documentation: Resolution No. 20-2023

Disposition: Approved.

16. STATUS AND REVIEW OF LOCAL DROUGHT EMERGENCY

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

Documentation: M.O. 20-050223

Disposition: Approved.

PUBLIC HEARINGS

17. ASSEMBLY BILL 481 - USE OF MILITARY EQUIPMENT ANNUAL REVIEW

Recommendation: That the the City Council, per the requirements of Assembly Bill 481:

1. Allow public comment and questions concerning the annual report and the funding, acquisition and use of the equipment;
2. Review and renew PPD Policy 704 – Military Equipment (Attachment 1);
3. Review the AB 481 Military Equipment Annual Report 2022 (Attachment 2); and
4. By opting not to modify or rescind, affirm Ordinance No. 1892.

City Manager Lollis introduced the item and Police Chief Jake Castellow presented the staff report.

Mayor Flores opened the Public Hearing at 7:41 p.m. and closed it at 7:42 p.m. when no one came forward to speak.

COUNCIL ACTION: MOVED by Mayor Flores, SECONDED by Vice Mayor Carrillo that the City Council renew PPD Policy 704 - Military Equipment; and reaffirmed Ordinance No. 1892. The motion carried unanimously.

Documentation: M.O. 21-050223

Disposition: Approved.

SCHEDULED MATTERS

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

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

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

Council Member Weyhrauch made a motion to continue this Scheduled Matter related AB 1090 and SB 94, to the next council meeting, to allow more time for council to gather more information before making a determination. The motion died for lack of a second.

Council Member Meister made a motion to put forward a resolution of opposition to AB 1090 and SB 94. The motion died for lack of a second.

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Council Member Weyhrauch, that the City Council continue the item to the next City Council meeting.

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

Documentation: M.O. 22-050223

Disposition: Consideration Continued.

19. STATUS AND REVIEW OF DECLARATION OF LOCAL FLOOD EMERGENCY

Recommendation: That the City Council:

1. Receive the report of status and review of the Declaration of Local Emergency and determine the need exists to continue said Declaration;
2. Provide direction on the function and hours of the Armory TEP after noon on May 5, 2023; and
3. Ratify the emergency expenditures of \$77,396.67 for a trailer-mounted 6" dewatering and sewage pump, and \$5,436.00 for local trucking services of riprap material for the Public Works Department.

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

COUNCIL ACTION: MOVED by Council Member Weyhrauch, SECONDED by Council Member Meister that the City Council continue the Declaration of Local Emergency; transition the Armory Temporary Evacuation Point to a twelve hour shelter starting May 5, 2023 at noon, along with the removal of the on-site mobile shower and portable restroom facilities on the premises; bring back the item to the 2nd council meeting in June; and ratify the emergency expenditures of \$77,396.67 for a trailer-mounted 6" dewatering and sewage pump, and \$5,436.00 for local trucking services of riprap material for the Public Works Department. The motion carried unanimously.

Documentation: M.O. 23-050223

Disposition: Approved.

AB 1234 REPORTS

1. Mighty 190 Committee - April 19, 2023

Vice Mayor Carrillo stated that she had been unable to attend the meeting.

2. Tulare County Taskforce on Homelessness - April 19, 2023

Mayor Flores reported on those in attendance, approval of minutes, discussion and review of the ByLaws; and updates on Homekey, Mobile Shower Units, and local efforts to address homelessness.

3. San Joaquin Valley Special City Selection Committee - April 20, 2023

Council Member Weyrauch reported on the approval of minutes and appointments to the governing board.

4. Porterville Area Development Authority (PADA) Board - April 21, 2023

Council Member Weyrauch reported on the approval minutes; the reorganization of the Board of Directors; action items regarding the reimbursement of eligible expenses for the Tertiary Treatment Facility and the Storm Drain Recharge Basin in the area of the new casino; and updates on the local road's improvements and Tule River Active Transportation Plan Update.

5. Tulare County Regional Transit Agency (TCRTA) Board - April 21, 2023

Council Member Weyrauch reported the introduction of an amended agenda, reports from the Executive Committee and Sustainability Committee; spoke of several reports related to employee recognition, grants and grant management, regional fare collection, transit operations; and the approval of minutes and a discussion regarding the professional services agreement for an Interim Director.

6. Tulare County Economic Development Corporation (TCEDC) Board - April 26, 2023

Mayor Flores reported on the approval of minutes, approval of financials, and updates on the project and client services.

7. Internal City Audit Committee - April 26, 2023 (Cancelled)

ORAL COMMUNICATIONS

- Brock Neeley, Porterville, noted the hypocrisy surrounding AB 1090 and SB 94.

OTHER MATTERS

- Council Member Beltran lauded the Public Works Department for their efforts during the flood fight; spoke of the recent spring clean-up event; and thanked the committee volunteers for their service to the community.
- Council Member Weyrauch lauded city staff for their contributions to the city; encouraged all employees to focus on their personal health and wellness; and spoke of a recent event where a staff member had deescalated a situation.
- Council Member Meister thanked staff for their hard work; and spoke of how certain policies directly impacted the city.

- Vice Mayor Carrillo thanked the flood fighters for their efforts; stressed the importance of mental health and wellness for the departments; stated she is looking forward to the Casino Grand Opening; and acknowledged Mayor Flores for her experience and attendance to the various committees and events.
- Mayor Flores spoke of her attendance to the Imagine Arts ribbon cutting, the Memorial Quilt Unveiling in Visalia, CA, the Arbor Day Celebration, and the Leadership Porterville Fundraising Event. Mayor Flores also spoke of several upcoming events such as the Commission Pageant, a Zeronox event, the Cinco De Mayo Parade, and a trip to Washington D.C.
- City Manager Lollis spoke of Administrative Professionals Day and said he appreciates staff for all that they do; invited the Council to an upcoming staff luncheon; and spoke of City Attorney Julia Lew's upcoming birthday.

CLOSED SESSION

None.

ADJOURNMENT –

The Council adjourned at 9:29 p.m. to the meeting of May 16, 2023, at 5:30 p.m.

Fernando Gabriel-Moraga, Deputy City Clerk

SEAL

Martha A. Flores, Mayor



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Purchase of Personal Protective Equipment

SOURCE: Fire

COMMENT: The Porterville Fire Department is currently in the process of hiring one new Fire Captain to fill a vacancy at that rank within the Department. This firefighter is new to the City and has not been issued Personal Protective Equipment (PPE). Pursuant to National Fire Protection Association (NFPA) Guidelines, each firefighter responsible for responding to structure fires is required to have two custom fitted sets of Personal Protective Equipment (PPE) for structure fires.

The Department has a standard uniform PPE specification, based on the Globe Custom turnout. Curtis is the only supplier that distributes Globe Customs in this area, and has provided a quote to provide two sets for a cost including tax of \$7,249.83, as well as a ten percent (10%) contingency for a total price not to exceed 7,974.81. The Department must have this equipment in hand before the firefighter can be onboard. Funds are available for this purchase in the Fire Department's General Fund budget.

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

ATTACHMENTS: 1. Curtis Quote

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Fire Chief

Final Approver: John Lollis, City Manager

Ph: 510-839-5111
TF: 800-443-3556
Fax: 510-839-5325
oaksales@lncurtis.com
UEI#: DDL5ADSWN7U7

CURTIS

TOOLS FOR HEROES

Pacific North Division
6723 Sierra Court, Suite C
Dublin, CA 94568
www.LNCurtis.com
Sales Order No. 806077

Sales Order

SOLD TO:
Porterville City Fire
Department
291 North Main Street
Porterville CA 93257

SHIP TO:
Porterville City Fire
Department
Attn: Mike Hildreth
40 West Cleveland Avenue
Porterville CA 93257
PO: Hildreth

SALES ORDER NO.

806077

DATE ORDER ACCEPTED

04/21/2023

SALESPERSON

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

CUSTOMER SERVICE REP

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

CUST ORDER/PO NO.	ORDERING PARTY	CUSTOMER NO.	TERMS	ORDER CLASS
Hildreth	Chief Hildreth	C36150	Net 30	FR

F.O.B.	SHIP VIA	DELIVERY REQ. BY	SHIP COMPLETE
DEST	Standard Shipping		No

SPECIAL INSTRUCTIONS

Per State of California Senate Bill 1044, this serves as written notice that certain fabric components of Globe turnout coats, pants and boots contain per- and polyfluoroalkyl substances (PFAS) as defined by state law. Globe suppliers have told them they add PFAS to their materials to achieve water and/or oil repellency or for resistance to low surface chemicals, such as gasoline, hydrocarbons, etc. This is for informational purposes only – no further action is required.

NOTES & DISCLAIMERS

Safety Warning Notice: Products offered, sold, or invoiced herewith may have an applicable Safety Data Sheet (SDS) as prepared by the manufacturer of the product. Any handlers or users of product should refer to applicable SDS prior to handling or utilizing the product. Applicable SDS are included with shipment of products. For other important product notices and warnings, or to request an SDS, please contact Curtis or visit <https://www.lncurtis.com/product-notices-warnings>

LN	QTY	UNIT	PART NUMBER	DESCRIPTION	PL	UNIT PRICE	TOTAL PRICE
1	2	EA	G-XTREME 3.0 JACKET - GLOBE CUSTOM	As follows: #1C757G, G-XTREME JACKET *Per Porterville City Fire Department specifications		\$1,889.00	\$3,778.00
2	2	PR	GPS GLOBE CUSTOM	As below: #FC757G GPS PANTS *Per Porterville City Fire Department specifications		\$1,429.00	\$2,858.00

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

CURTIS

TOOLS FOR HEROES

Pacific North Division
6723 Sierra Court, Suite C
Dublin, CA 94568
www.LNCurtis.com
Sales Order No. 806077

Subtotal	\$6,636.00
Estimated Tax Total	\$613.83
Transportation	\$0.00
Total	\$7,249.83

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

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



Pacific North Division
6723 Sierra Court, Suite C
Dublin, CA 94568
www.LNCurtis.com
Sales Order No. 806077

PRODUCT SPECIFICATIONS AND REQUIREMENTS

Turnouts for Matt Doney
Coat - 46x32(-2)/TPR
Pants-38X30/REG



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Authorization to Advertise for Bids - Main Street Reconstruction Project (Putnam Avenue to Morton Avenue)

SOURCE: Engineering and Project Management

COMMENT: The Plans and Project Manual have been prepared for the Main Street Reconstruction Project between Putnam Avenue and Morton Avenue. The project will consist of the removal and replacement of the existing asphalt and base and the 6" cast iron water main. The project also includes the installation of new barrier curb and gutter, detectable warnings, conduit for fiber optic line, and installing video detection at the intersection of Main Street and Putnam Avenue and Main Street and Morton Avenue. Purple pipe will be installed along the stretch of road in order to prepare for the future use of reclaimed water throughout the City.

The Engineer's Estimate of Probable Cost for the project is \$1,661,187.23. An additional \$166,118 is necessary for construction contingency (10%) and \$166,118 is required for construction management, surveying, quality control and inspection services (10%), equating to a total construction cost of \$1,993,423.23.

Funding for this project is provided from Road Maintenance Rehabilitation Account (SB1/Special Gas Tax Funds) in the amount of \$1,548,748. Up to an additional \$1,000,000 in Local Transportation Funds is available as approved in the 2022/2023 Fiscal Year Budget making this a fully funded project.

RECOMMENDATION: That the City Council:

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

ATTACHMENTS:

1. Locator Map
2. Engineer's Estimate

Appropriated/Funded:

Review By:

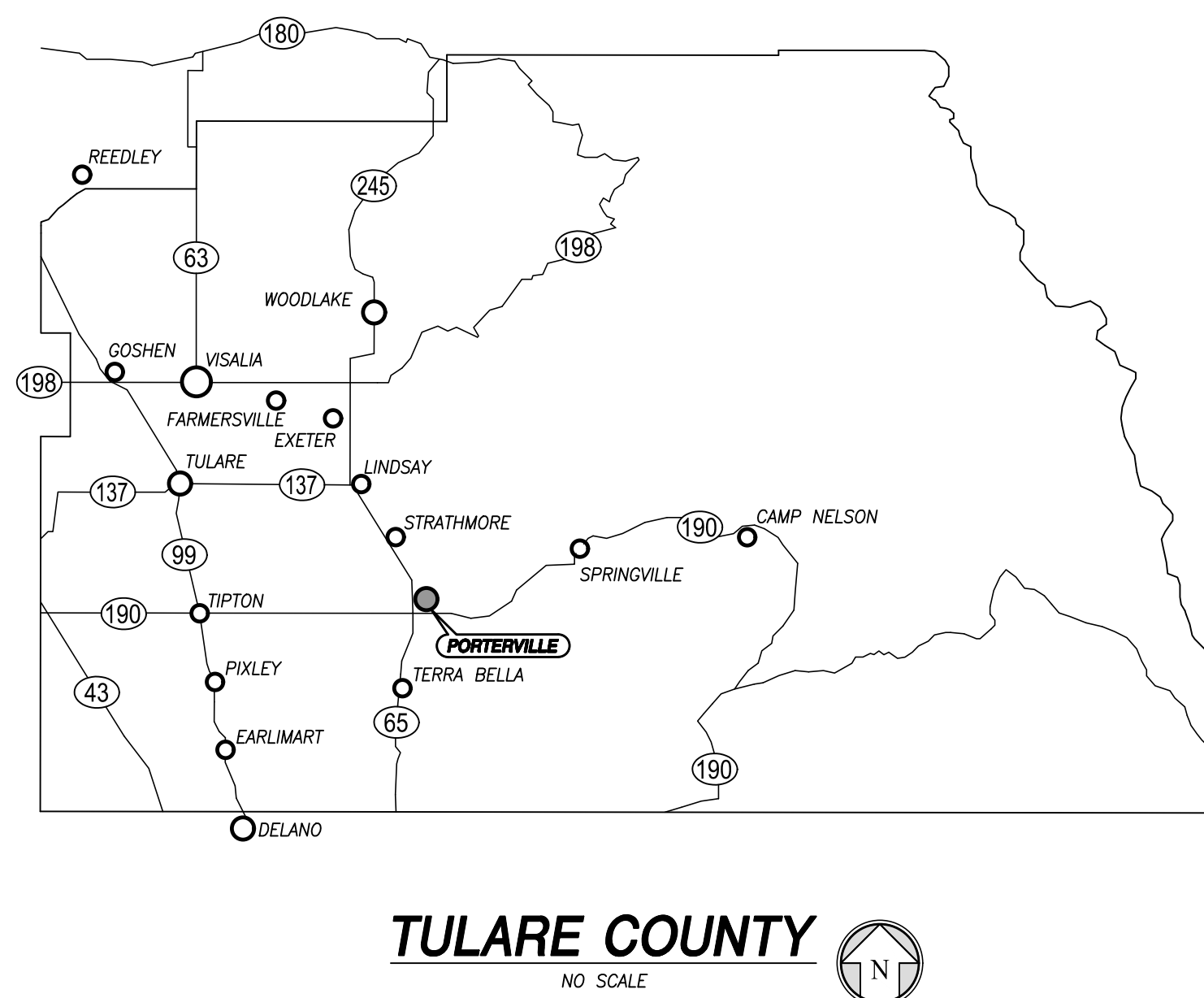
Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: Patrice Hildreth, Deputy City Manager

State of California

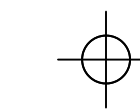
MAIN STREET RECONSTRUCTION PLANS

PHASE ONE



SHEET INDEX

- 1 COVER SHEET
- 2 GENERAL NOTES AND LEGEND
- 3 SHEET INDEX
- 4 TOPOGRAPHIC SURVEY, STA 25+00 - 35+50
- 5 TOPOGRAPHIC SURVEY, STA 35+50 - 39+19
- 6 DEMOLITION PLAN, STA 25+00 - 35+50
- 7 DEMOLITION PLAN, STA 35+50 - 39+19
- 8 PLAN AND PROFILE, STA 25+00 - 29+75
- 9 PLAN AND PROFILE, STA 29+75 - 35+50
- 10 PLAN AND PROFILE, STA 35+50 - 39+19
- 11 STRIPING PLAN, STA 25+50 - 39+19
- 12 TRAFFIC SIGNAL PLAN, MAIN ST AND PUTNAM
- 13 TRAFFIC SIGNAL PLAN, MAIN ST AND MORTON AVE
- 14 DETAILS
- 15 DETAILS



BENCHMARK

W4 COR, SEC 25--21/27. FD 2" BRASS CAP IN HIGHWAY WELL, STAMPED
RCE 7442, 4.20' SOUTH OF THE CENTERLINE OF MORTON AVENUE AND ON
LINE WITH THE CENTERLINE OF DIVISION STREET TO THE SOUTH. USED THE
NAVD 1988 DATUM ELEVATION AS SHOWN ON THE CITY OF PORTERVILLE
CONTROL NETWORK SURVEY, LS 21/28.

ELEV = 458.766

BASIS OF BEARINGS

THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 21 SOUTH, RANGE 27 EAST, PER RECORD OF SURVEY
RECORDED IN BOOK 21 OF LICENSED SURVEYS, AT PAGE 68, T.C.R.

TAKEN AS: N1°01'40"E

UTILITY CONTACTS

SOUTHERN CALIFORNIA EDISON
DUSTIN UNDERWOOD
2425 S. BLACKSTONE STREET
TULARE CA 93274
PHONE NO.: (559) 684-3558
CELL NO.: (559) 331-2426
EMAIL: Dustin.Underwood@sce.com

SOUTHERN CALIFORNIA GAS
CHAD MUELLER
404 N. TIPTON STREET
VISALIA, CA 93292
PHONE NO.: (559) 739-2241
CELL NO.: (559) 799-7477
EMAIL: cmueller@semprautilities.com

AT&T
ERIN PECTOL
217 W ACEQUIA AVENUE
VISALIA, CA 93291
PHONE NO.: (559) 739-6649
CELL NO.: (559) 737-1637
EMAIL: Ep8545@att.com

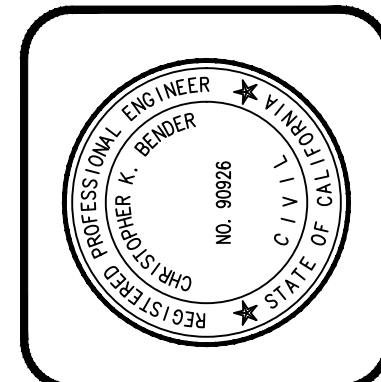
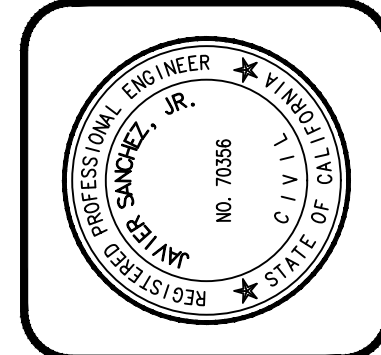
CHARTER
DAN NAUYOKS
375 N. MAIN STREET
PORTERVILLE, CA 93257
PHONE NO.: (559) 920-9669
EMAIL: Dan.Nauyoks@charter.com

CVIN
BARBARA NELSON
7447 N PALM BLUFFS AVENUE
FRESNO, CA 93711
PHONE NO.: (559) 554-9100
CELL NO.: (559) 554-9119
EMAIL: Bnelson@cvin.com

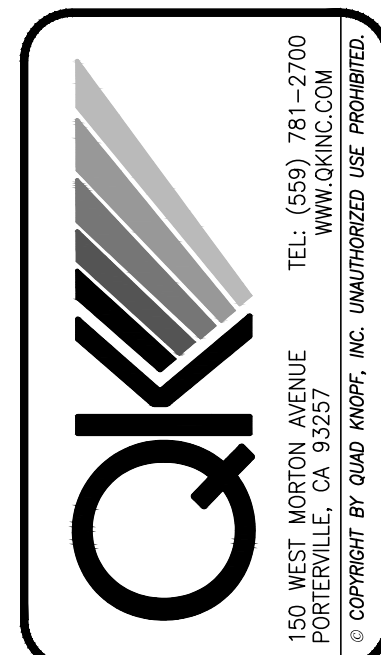
CITY OF PORTERVILLE
JAVIER SANCHEZ
291 N MAIN STREET
PORTERVILLE, CA 93257
PHONE NO.: (559) 782-7499



Know what's below.
Call before you dig.

[illegible]

APPROVED BY:	DATE	CHRISTOPHER K. BENDER PROJECT ENGINEER	R.C.E. 90926
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City of Porterville
291 N MAIN STREET
PORTERVILLE, CA 93257
(559) 782-7499

**MAIN STREET RECONSTRUCTION PHASE ONE
COVER SHEET**

PROJECT NO.: 190121
DRAWN BY: LRH
QA/QC BY: JSC
SCALE: NO SCALE
SHEET NO.: 1 OF 15



PRELIMINARY OPINION OF PROBABLE CONSTRUCTION COSTS

CLIENT/PROJECT: CITY OF PORTERVILLE/ MAIN STREET IMPROVEMENTS PROJECT

PREPARED BY: MARCO GONZALEZ

LOCATION: PORTERVILLE BRANCH

Job # 190121 PHASE 1

Date: 5/5/2023

100% Submittal

ITEM NO.	DESCRIPTION	QTY	UNIT	PRICE	AMOUNT
1	Mobilization & Demobilization	1	L.S.	\$96,100.00	\$96,100.00
2	Prepare and Maintain Traffic Control Plan	1	L.S.	\$20,000.00	\$20,000.00
3	Demolition & Excavation	1	L.S.	\$50,000.00	\$50,000.00
4	Remove Existing Traffic Loop Detectors	12	EA	\$400.00	\$4,800.00
5	Perform Utility Potholing	1	LS	\$10,000.00	\$10,000.00
6	Remove Existing 6" Cast Iron Water line	1	LS	\$2,500.00	\$2,500.00
7	Construct City Std. Barrier Curb & Gutter	1226	LF	\$55.00	\$67,430.00
8	Construct City Std. Barrier Curb	870	LF	\$45.00	\$39,150.00
9	Protect and Reconstruct Decorative City Catch Basin to Grade	12	EA	\$2,500.00	\$30,000.00
10	Furnish and Install Detectable Warning Surface	681	SF	\$50.00	\$34,050.00
11	Furnish and Install Banner Poles	2	EA	\$15,000.00	\$30,000.00
12	Sheeting & Shoring	1	LS	\$15,000.00	\$15,000.00
13	Furnish and Install 4" PVC Conduit	1402	LF	\$100.00	\$140,200.00
14	Furnish and Install Utility Box and Sweeps	9	EA	\$1,200.00	\$10,800.00
15	Furnish and Install 12" PVC C900 Purple Pipe	871	LF	\$200.00	\$174,200.00
16	Furnish and Install 12" Gate Valve	2	EA	\$6,000.00	\$12,000.00
17	Furnish and Install 12" Cap Assembly	2	EA	\$2,500.00	\$5,000.00
18	Furnish and Install 2" City Std Irrigation Water Service	1	EA	\$5,000.00	\$5,000.00
19	Bore 4" Conduit at Decorative Crosswalk	8	EA	\$500.00	\$4,000.00
20	Decorative Paver Crosswalk Replacement	7	EA	\$2,500.00	\$17,500.00
21	Signing, Striping, and Pavement Markings	1	LS	\$15,000.00	\$15,000.00
22	Trench Pavement Restoration	400	SF	\$10.00	\$4,000.00
23	Intersection Pavement Cold Planing (1.5" depth)	8659	SF	\$0.50	\$4,329.50
24	Full Width Pavement Cold Planing (4.5" min. depth)	53709	SF	\$1.60	\$85,934.40
25	Furnish and Place Hot Mix Asphalt Overlay	1710	TON	\$100.00	\$171,000.00
26	Furnish and Place 10" Plug Pavement Patch at New Concrete	2096	SF	\$5.00	\$10,480.00
27	Furnish and Install Paving Mat	4,500	SY	\$15.00	\$67,493.33
28	Adjust Water Valve to Grade	4	EA	\$800.00	\$3,200.00
29	Adjust Manhole Frame and Cover to Grade	0	EA	\$1,500.00	\$0.00
30	Signing, Striping, and Pavement Markings	1	LS	\$20,000.00	\$20,000.00
31	Furnish and Install Video Detection Cameras and Appurtenances (Putnam & Main, Morton & Main)	2	EA	\$175,000.00	\$350,000.00
32	Reconstruct Existing Survey Monuments	5	EA	\$2,200.00	\$11,000.00
				Subtotal:	\$1,510,167.23
				10% Contingencies:	\$151,020.00
				Total:	\$1,661,187.23



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Authorization to Distribute Request for Qualifications - Emergency Operations Center & Public Safety Headquarters

SOURCE: Engineering and Project Management

COMMENT: The City is proposing the development of an Emergency Operation Center (EOC) & Public Safety Headquarters at 41 W Thurman Avenue; the former site of the City's library. The EOC & Public Safety Headquarters will serve as the critical coordination hub during emergency incidents and a centralized location for emergency response and recovery operations in Porterville and the greater southeastern Tulare County Area. The location's proximity to Fire Station 71 and the Porterville Police Department makes it ideal to function as a public safety administrative building as well. The design will also incorporate a memorial area to honor Fire Captain Ramon "Ray" Figueroa and Firefighter Patrick Jones, who both tragically lost their lives during the catastrophic Library fire on February 18, 2020.

With these concepts in place, staff proceeded with the preparation of a draft Request for Qualifications for design services for this project. The architectural and engineering firms interested in the project shall submit a statement of qualifications that will be reviewed and rated by a selection panel. The highest ranking firms, typically two to three firms, may be asked to participate in an interview panel and ranked again.

Staff will then present the results of the ranking to City Council for approval and to direct staff to negotiate a fee with the highest ranking firm or the firm determined by Council. The chosen firm will meet with staff to fine tune the scope and deliver a fee. If the fee is acceptable, staff will then seek the Council's approval to execute a Service Agreement so that the firm can commence with the needed design work for the Emergency Operations Center & Public Safety Headquarters Project.

In July of 2022, the City received notification that an appropriation in the amount of \$10 million dollars in State funding was approved as part of the California Assembly Bill 178, the Budget Act of 2022, for the development of this project.

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

ATTACHMENTS:

1. Draft Request for Qualifications
2. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager



REQUEST FOR QUALIFICATIONS

**Design Services – Emergency Operations Center (EOC) & Public
Safety Headquarters
May 2023**

**PREPARED BY:
ENGINEERING & PROJECT MANAGEMENT DEPARTMENT
on behalf of the Fire & Police Departments
May 2023**

I INTRODUCTION AND OBJECTIVES:

The City of Porterville (hereinafter referred to as "CITY") is requesting statements of qualifications (SOQs) from qualified architectural and/or engineering firms for the purpose of developing plans and specifications for an Emergency Operations Center (EOC) & Public Safety Headquarters to be located at 41 W Thurman Avenue; the former site of the City's library.

The City endeavors to design and construct a EOC & Public Safety Headquarters that will serve as the critical coordination hub during emergency incidents and a centralized location for emergency response and recovery operations in Porterville and the greater southeastern Tulare County area. The building will also serve as the public safety administrative building with the location's proximity to Fire Station 71 and the Porterville Police Department and should incorporate a traffic management system or be traffic management system capable.

The design will also incorporate a memorial area to honor Fire Captain Ramon "Ray" Figueroa and Firefighter Patrick Jones who both tragically lost their lives during the catastrophic Library fire on February 18, 2020. The City wishes to receive full construction documents within 9-12 months of contractual agreement.

This document identifies the general project scope and procedures for Consultant involvement in this process. Responding consultants must have relevant experience and the ability to provide the requisite professional services to complete all necessary and required materials and equipment to meet all applicable Federal, State and Local codes. The completed project must be complete and usable and in compliance with all Federal, State and Local codes and regulations regarding Emergency Operation Centers.

II EXAMINATION OF SOQ DOCUMENTS:

By submitting an SOQ, each CONSULTANT represents that it has thoroughly examined and become familiar with the work required under this RFQ and that it is capable of performing quality work to achieve the objectives of CITY.

III ADDENDA/CLARIFICATIONS:

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

IV SOQ REQUIREMENTS:

SOQs for this project will be accepted at this office until 4:00 p.m., on Wednesday, June 21, 2023. Three (3) copies of the SOQ shall be submitted in a sealed envelope, plainly marked "Statement of Qualifications for Emergency Operations Center." Cost proposals shall not be submitted until requested by the CITY. SOQs shall be addressed to:

Sarah Weaver, Project Manager

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

The City reserves the right to reject any and all SOQs, which do not meet the requirements of this RFQ and/or any portion of the requirements of this project.

V PRE-CONTRACTUAL EXPENSES:

Pre-contractual expenses are defined as expenses incurred by the CONSULTANT in:

1) Preparing and reproducing its SOQ in response to this RFQ; 2) submitting its SOQ to CITY; 3) negotiating with CITY any matter related to this RFQ and CONSULTANT's SOQ; 4) other matters prior to the date of award of a Contract.

CITY shall not be liable for any pre-contractual expenses incurred by CONSULTANT in the preparation of SOQs. Pre-contractual expenses shall not be included in the cost proposal.

VI EXCEPTIONS/DEVIATIONS:

Any exceptions to the requirements of this RFQ must be included in the CONSULTANT's SOQ. Such exceptions must be included as a separate element of the SOQ entitled "Exceptions and Deviations."

VII CONSULTANT REPRESENTATIVE:

The CONSULTANT shall assign a responsible representative and an alternate, both of whom shall be identified in the SOQ. The CONSULTANT's representative shall remain in responsible charge for the duration of the project. Should the CONSULTANT's primary representative be unable to continue with the project, the CONSULTANT's alternate representative shall become the primary representative. No personnel changes will be acceptable without prior approval by CITY. CITY reserves the right to reject any changes in personnel at any time during the course of this project. CITY also reserves the right to terminate the contract if, in the opinion of CITY, substantial changes in project management may jeopardize the successful completion of this project to the satisfaction of CITY.

VIII LOCAL AGENCY REPRESENTATIVE:

Sarah Weaver, Project Manager, shall be the Contract Administrator and contact person for all communications with CITY.

IX INSURANCE REQUIREMENTS:

The CONSULTANT shall maintain and provide current copies to CITY of the following minimum insurance coverage for the duration of this project:

- Full liability under Worker's Compensation laws of the State of California
- General comprehensive liability (*bodily injury and property damage*)*
- Professional liability insurance (*errors and omissions*)*
- Automotive liability Insurance*

*All must provide a combined single limit (CSL) of not less than \$2 million per occurrence.

X INDEMNIFICATION:

The CONSULTANT shall indemnify, defend, and hold harmless CITY, its elected and appointed officers, employees agents from and against any and all claims, including attorney's fees and reasonable expenses for litigation or settlement, for any loss, damages, bodily injuries, and loss of property caused by negligent acts, omissions, or willful misconduct by the successful CONSULTANT and its subconsultants arising out of performance requirements of the Contract.

XI SUBCONTRACTING:

Only those firms identified in the Contract as subcontractors or subconsultants shall be allowed to perform work for this project. Any amendments to this requirement shall be made in writing by prime CONSULTANT to CITY. CITY has the right to reject any requested amendments at any time during the course of this project.

XII FEDERAL, STATE, AND LOCAL LAWS:

The CONSULTANT shall comply with all federal, state, and local laws, rules, regulations, ordinances, and statutes.

XIII SOQ EVALUATION CRITERIA:

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

- A. Transmittal Letter;
- B. Firm(s) experience with similar projects and references;
- C. Firm(s) key personnel qualifications/certifications and experience, especially the project manager and individuals performing services;
- D. Firm(s) understanding of the project requirements;
- E. Project schedule. Firm(s) must detail ability to provide the required services in a timely and cost-effective manner to meet the required schedule;
- F. Firm(s) policy in providing Equal Employment Opportunity; and
- G. Firm(s) approach to provide the best product for CITY.

The attached CITY'S Consultant Selection Rating Form shall be used to rate each firm.

XIV CONSULTANT SELECTION AND INTERVIEWS:

CITY selection committee, consisting of the Contract Administrator and at least two additional staff members familiar with the project requirements, will review all SOQs and rank CONSULTANTs according to their demonstrated competence and professional qualifications as assessed by their response to this RFQ and the evaluation criteria contained in the CITY'S Consultant Selection Rating Form. The top three (3) highest ranked CONSULTANT(s) may be invited for oral interviews with CITY team to determine the top rated firm. However, in the event one proposal is clearly superior to all other proposals, The City of Porterville reserves the right to eliminate the oral interview process and present their recommendation to the City Council based solely on the proposals. The Engineering & Project Management Director shall make a recommendation to the City Council to award a contract to the top rated firm.

The City Council, at its sole discretion, may choose to accept staff's recommendation, or may choose to award a contract to another consulting firm, or may choose not to award a contract as this time. The Contract will be a written Service Agreement between the Consultant and the City setting forth the scope of work, responsibilities, deliverables, schedule, ownership of work, insurance requirements, compensation, method of payment, and other points. A sample Service Agreement is included in this RFQ package. Please indicate on the transmittal letter the firm's ability to comply with the Service Agreement provisions, including insurance coverage.

Interviews are tentatively scheduled for July 10, 2023. Each participating firm will be contacted via telephone for verification of interview date and time. Failure to be available at the time of a scheduled interview shall be considered non-responsive and shall be cause for elimination from any further consideration. CITY reserves the right to begin negotiations and enter into a Contract without interviews or further discussion.

XV COST PROPOSAL:

The cost proposal shall not be submitted until requested by the CITY. Negotiations with the top-ranked candidate(s) may begin immediately. If an agreement cannot be reached within ten (10) working days, CITY may begin negotiations with the next selected candidate(s) and proceed. If necessary, this process will continue until either an agreement is reached or CITY elects to re-advertise for new SOQs. CITY reserves the right to reject any and all proposals prior to award of a Contract. All cost proposals not opened shall be returned to their respective firms.

XVI CONTRACTS/AGREEMENTS:

The successful CONSULTANT shall enter into upcoming Contracts with CITY that are based on the contents of this RFQ, the CONSULTANT's SOQ and cost proposal, and CITY Contract. Where two or more CONSULTANTs desire to submit a SOQ (joint venture), only one CONSULTANT shall be listed as prime CONSULTANT. All others shall be listed as subconsultants. The chosen CONSULTANT is expected to be presented at the City Council meeting scheduled for Tuesday, July 18, 2023. Issuance of this RFQ and receipt of SOQs does not commit CITY to award a Contract. CITY reserves the right to postpone award of a Contract for its own convenience, accept or reject any or all SOQs received in response to this RFQ, and cancel any or all portions of this RFQ and resulting Contract.

XVII COMPENSATION:

- A. All items of work required for completion of the project/s to result from this RFQ shall be paid for following the cost proposal format specified in each task order request. Costs for any and all items not specifically listed, but required to complete the work for projects (including all exceptions and deviations stated included in CONSULTANT's SOQ), shall be included as part of the total cost proposed. No additional compensation shall be paid for such items. No additional compensation shall be given for any reproduction costs, except those in excess of the requirements stated in this RFQ. Only a change in scope or any significant task addition or increase shall receive consideration for additional compensation.
- B. If the CONSULTANT feels that any work it has been directed to perform is beyond the scope of the Contract and constitutes extra work, it shall notify CITY in writing within ten (10) days. CITY will review such notice and, if justified, authorize additional compensation to the CONSULTANT on a fair and equitable basis.
- C. Monthly progress payments will be made to the CONSULTANT only upon submittal of invoices to CITY. Said invoice shall indicate the percentage completion of each task, as well as the overall percentage completion of the entire project. In addition, an updated schedule showing tasks and their degree of completion shall be provided.

XVIII OWNERSHIP OF REPORTS AND DOCUMENTS:

Originals of all documents, letters, drawings, design calculations, estimates, specifications, and other documents and data produced under the terms of the Contract shall become the property of CITY. CITY shall retain all rights in copyright. Copies may be made and retained by the CONSULTANT for its records, but shall not be furnished to others without the written consent of CITY for a period of three (3) years from the date of acceptance, by CITY, of all requirements of this project.

XIX SOQ FORMAT AND CONTENT:

SOQs shall be brief and include a concise address of the following information:

- A. Firm Experience:
 - 1. A brief list of similar projects completed in the last ten (10) years, indicate the specific relationship if other than principal and each firm's responsibilities. Descriptions of pertinent experience should include a summary of work performed, adherence to schedules, the duration of each project, and the name, title, and phone number of clients that may be contacted for reference. Particular attention should be paid to past projects that prove experience in Design of Emergency Operations Centers, Police or Fire Facilities as well as other similar facilities.

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

B. Consultant Team:

Name of prime consulting firm, subconsultant(s), names of principals, associates, project manager, and key personnel, their proposed level and areas of responsibility, and their qualifications/certifications in those areas. The CONSULTANT's Project Manager and key personnel will be an important factor considered by CITY.

1. Any changes to personnel assigned to this project shall be made in writing to CITY. CITY reserves the right to reject any proposal for modified personnel.
2. If subconsultants are used, names of subconsultant's key personnel for the project, their professional experience, qualifications/certifications, and training, which are applicable to this project, and the scope of services that will be provided by each subconsultant.
3. The office location from which the CONSULTANT(s) shall operate along with telephone and/or cell number of the project manager.

C. SOQ Format:

1. SOQs shall contain no more than twenty (20) pages, excluding cover sheet, table of contents, index sheets, and resumes, double-sided, font size no less than 10 pt., and single or double-spaced. Cover letters will be counted as part of the twenty sheets. The City encourages the use of recycled materials.
2. SOQs should include, but not be limited to, the following:
 - a. Page numbering;
 - b. Table of Contents, if applicable;
 - c. Section dividers with tabs, if applicable;
 - d. Identification of offering firms, including name, address, and telephone number of each firm;
 - e. Prime CONSULTANT organizational chart, which includes subconsultant(s) with names and titles of personnel to be used for this project;
 - f. Acknowledgment of receipt of RFQ addenda, if any;
 - g. Concise, complete response addressing each of the items, 'a' through 'p', as shown in the City's "Consultant Selection Rating Form"; and
 - h. Exceptions to or deviations from the requirements of this RFQ, separating technical exceptions from contractual exceptions. Any alternative approach proposed by the CONSULTANT shall be thoroughly explained and shall meet the objectives of CITY.

CITY OF PORTERVILLE
REQUEST FOR QUALIFICATIONS (RFQ) FOR DESIGN SERVICES FOR EMERGENCY OPERATIONS
CENTER (EOC) & PUBLIC SAFETY HEADQUARTERS

The City of Porterville (hereinafter referred to as "CITY") is requesting statements of qualifications (SOQs) from qualified architectural and/or engineering firms for the purpose of developing plans and specifications for an Emergency Operations Center (EOC) & Public Safety Headquarters to be located at 41 W Thurman Avenue; the former site of the City's library.

This document identifies the general project scope and procedures for Consultant involvement in this process. Responding consultants must have relevant experience and the ability to provide the requisite professional services. to complete all necessary and required material and equipment to meet all applicable Federal, State and Local codes (including codes and regulations regarding Emergency Operation Centers).

SCOPE OF DESIGN SERVICES:

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

1. Meet with City staff to ascertain the full scope of design work and determine the level and amount of information and drawings available to the consultant to assist in the preparation of the formal "scope of service". Said scope shall be prepared and transmitted to the City for review and concurrence. The consultant shall include their "fee" for all work described in the scope of services and, if acceptable to the City, the scope of services and associated fee shall form the basis for the Consulting Services agreement. A brief description of some of the work needed is listed below.
 - a. Final design plans and specifications for the development of an EOC & Public Safety Administration Building.
 - i. The plans and specifications must meet all Federal, State and Local codes (including codes and regulations regarding Emergency Operation Centers).
 - ii. Boundary and topography survey to establish property corners and design grades. Prepare legal descriptions and plat maps.
 - iii. Plans and specifications shall be complete and Code compliant (construction ready) for all aspects of the project deliverables including but not limit to landscape & irrigation, foundation, plumbing, building structure, internal & external concrete/asphalt improvements and amenity improvements, etc.
2. Field Surveys necessary for the establishment of property corners including descriptions and recording of said property corner establishment. Topography survey as needed to properly establish open space grades, building foundation, and floor elevations cognizant of the surrounding topography. Said topography survey shall be provided in such detail

that the information will be used to establish landscape, hardscape and irrigation systems.

3. Compile background data necessary and perform services required to prepare conceptual, preliminary and final plans, specifications, contract documents, special provisions, and special details needed for a complete and thorough project.
4. Prepare an Engineer's Estimate of Probable Cost Report.
5. Provide clarifications and answer questions as needed during the construction bid process.
6. Coordinate early consultation and ongoing meetings with City staff and staff at other agencies.
7. Prepare the "Drawings of Record" and furnish the City with a digital set for the record.
8. Provide other consulting services as available through the selected firm.

DESIRABLE QUALIFICATIONS OF THE CONSULTANT:

The City is seeking a qualified consultant to provide plans, specifications, and related documentation for an EOC & Public Safety Headquarters. The desired consultant shall have the following qualifications:

1. Experience in design and construction support of similar facilities or other experience relevant to this type of project.
2. The Consultant's proven ability to expeditiously and accurately produce the required product in a concise and useable format.
3. The "design team" should be comprised of professionals with the requisite design expertise to prepare complete "construction ready" plans, specifications, shop drawing review, and construction assistance.
4. The "design team" should include the proper mix of professionals (architectural, engineering, landscape, fire sprinkler, cost estimation, etc.).

LOCAL AGENCY RESPONSIBILITIES:

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

The CITY's Contract Administrator will directly handle the project management and monitoring

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

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

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

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

CONSULTANT SELECTION RATING FORM					
Project Name: Project Number:	Date: Evaluation Factor	Rating Factor Numerical Range & Weighting Based on Importance of Factor	FIRM	FIRM	FIRM
		Score	Score	Score	Score
a. Capability to perform all or most aspects of the project.		0-10			
b. Recent experience in projects comparable to the proposed project.		0-10			
c. Firm's reputation for professional integrity and competence.		0-5			
d. Key personnel's professional background and caliber.		0-7			
e. Adequate qualified personnel available for assignment to the project.		0-5			
f. Recent experience in specialized areas of expertise associated with the project.		0-5			
g. Demonstrated ability to meet schedules or deadlines.		0-10			
h. Demonstrated ability to complete projects without having major cost escalations or overruns.		0-7			
i. Qualifications and experience of outside consultants regularly engaged by the consultant under consideration.		0-10			
j. Quality of project previously undertaken.		0-10			
k. Familiarity with and proximity to the geographic location of the project.		0-5			
l. Capability of a branch office, which will do the work to perform independently of the home office, or conversely, its capability to obtain necessary support from the home office.		0-3			
m. Demonstration of an understanding of the project's potential problems and the City's special concerns.		0-5			
n. Degree of interest shown in undertaking the project.		0-3			
o. Evidence that consultant is an equal opportunity employer.		0-2			
p. Proximity of firm's office to project.		0-3			
TOTAL SCORE:					
RANKING:					

Highest Possible Score = 100

SERVICE AGREEMENT

DATE:

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and (*insert name*), hereinafter referred to as "CONSULTANT".

RECITALS: CITY has undertaken a project on which it is seeking assistance from CONSULTANT. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name:

Description of Project: In general, Consultant to provide (plans and specifications) (services) for the (proposed project). Details are summarized in the Scope of Services as Attachment "A".

IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER set forth the parties hereto do contract and agree as follows:

SECTION 1. CONTRACT SERVICES:

CONSULTANT hereby agrees to provide the following services and materials, in a timely manner as described:.

SECTION 2. PAYMENT:

In consideration for said services and materials, CITY shall pay CONSULTANT on a time and materials basis (and/or not to exceed _____ Dollars (\$ _____)).

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 45 days of the date the bill is received.

SECTION 3. COMPLETION DATE:

The services to be performed by CONSULTANT will be commenced upon execution of this agreement and all "work directives" shall be completed by (*date*). In the case of ongoing testing and results protocol, the CONSULTANT shall submit results as required to CITY, State and/or Federal governing agencies.

SECTION 4. FAMILIARITY WITH PROJECT:

CONSULTANT certifies and agrees that it is fully familiar with all of the details of the project required to perform its services. CONSULTANT agrees it will not rely upon any opinions and representations of CITY unless CITY is the only available source of said information.

SECTION 5. INDEPENDENT CONTRACTOR:

It is expressly understood that CONSULTANT is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. CONSULTANT specifically warrants that it will have in full force and effect, valid insurance covering:

- (i) Full liability under worker's compensation laws of the State of California; and
- (ii) Bodily injury and property damage insurance in the amount not less than Two Million Dollars (\$2,000,000) per occurrence; and
- (iii) Errors and Omissions insurance of Two Million Dollars (\$2,000,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars (\$50,000) or more, the City may require a Surety Bond for the deductible; and
- (iv) Automotive liability in the amount not less than Two Million Dollars (\$2,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any

injuries to third parties, including employees of CITY and CONSULTANT.

- (v) ***To the fullest extent permitted by law, and subject to California Civil Code Sec 2782.8, CONSULTANT agrees to indemnify, including cost to defend, City, its elected and appointed officers and employees, from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of City; and does not apply to any passive negligence of the City unless caused at least in part by Consultant. City agrees that in no event shall the cost to defend charged to Consultant exceed Consultant's proportionate percentage of fault. However, if one or more defendant/s is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the Consultant shall meet and confer with other parties regarding unpaid defense costs and reallocate as allowed by law or stature. This duty to indemnify shall not be waived or modified by contractual agreement or acts of the parties.***

SECTION 6. WORKMANSHIP AND MATERIALS:

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

SECTION 7. ASSIGNMENT OF CONTRACT:

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

SECTION 8. AFFIRMATIVE ACTION.

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

SECTION 9. CONFLICT OF INTEREST CODE:

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

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

SECTION 10. TERMINATION:

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

SECTION 11. ENTIRE CONTRACT:

It is understood and agreed that this Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs.

SECTION 12. DISPUTES; VENUE:

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

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

CITY OF PORTERVILLE

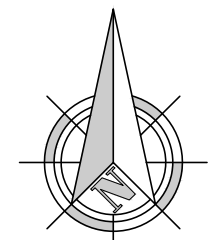
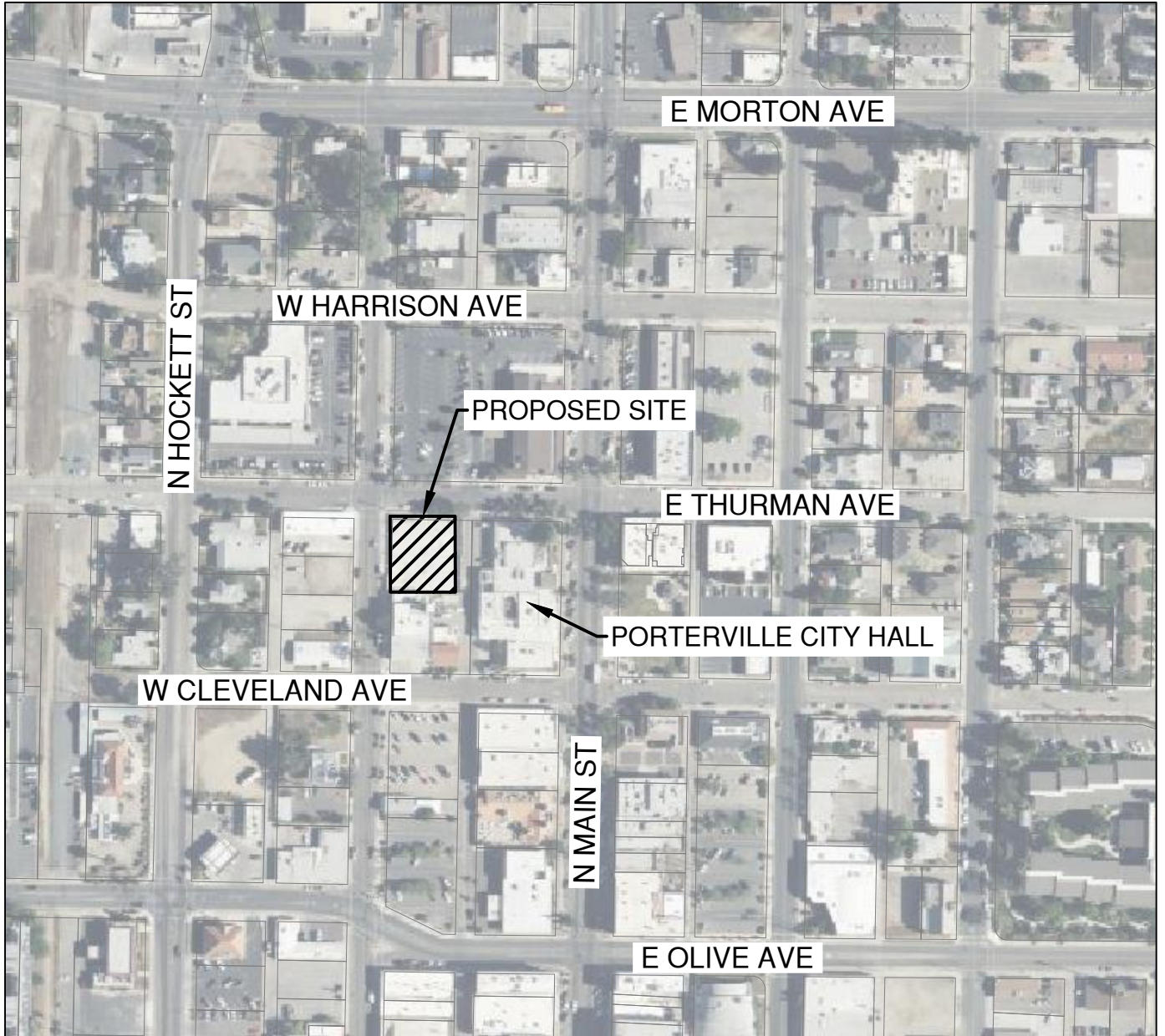
CONSULTANT

By _____

By _____

Date _____

Date _____



0' 125' 250'

SCALE: 1" = 250'

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

PROPOSED EOC PROJECT

DRAWN BY	GG
CHECKED BY	SW
SCALE	1" = 250'
DATE	5/10/2023

SHEET
1
OF
1



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Authorization to Award Freedom Fest Fireworks Contract

SOURCE: Parks and Leisure Services

COMMENT: The inaugural Freedom Fest community event took place in 2011 in partnership between the City and the Tule River Tribe, with each party contributing \$15,000 in seed money in support of the event. Freedom Fest has grown to an estimated annual attendance of approximately 12,000. Event activities include music, family entertainment, Porterville Fire Department spray zone, food, craft and information booths, and culminating in a fireworks show. In 2013, the City Council contributed \$10,000 and the Tribal Council \$7,500 to assist with the continuation of the event and to help in meeting the increased expenditure costs as the event expanded. Now approaching its twelfth year, staff is requesting that Council approve the expenditure of \$25,000 to Zambelli Fireworks for the fireworks show portion of the 2023 Freedom Fest. Council's approval will allow staff to issue a purchase order to secure its services. A fifty percent (50%) deposit of \$12,500 is required to execute the contract for services with the remaining balance due three days after the fireworks display. The expenditure will come from the Freedom Fest account out of the General Fund, from which there is currently a balance of \$20,267. It is further recommended that with regard to indemnification, the vendor be required to add the City as an additional insured to their liability coverage.

Additional fireworks vendors submitted proposals that were not comparable to the proposed display. The fireworks vendor from last year's event, Fireworks & Stage FX America, proposed the same display from 2022 with an increased cost of \$10,000 for a total fee of \$35,000. A third vendor, Pyro Spectaculars, did not produce a quote that was comparable to the total number of shots/ shells in the proposed display. Garden State Fireworks did not have an available pyrotechnic operator in California on the day of the event, and Expo Shows did not respond to a request for a proposal.

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

ATTACHMENTS:

1. Zambelli Fireworks Proposal
2. Fireworks & Stage FX America Proposal

3. Pyro Spectaculars Proposal

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

Zambelli

FIREWORKS

2023 Porterville Freedom Fest Fireworks Celebration



Zambelli Fireworks

John Hagan

800-322-7142

502-220-7944

jhagan@zambellifireworks.com

Shafter, CA



FIREWORKS PROPOSAL

Porterville Freedom Fest 2023 Fireworks Celebration

Show Date: Saturday July 1, 2023

Show Budget Options: \$25,000 - 20-minute display.

Insurance Liability Coverage: \$10 Million dollars per incident clause to cover the Fireworks Display. Zambelli uses the highest insurance premium in the industry, only offered to "AAA" rated companies.

State, Local and Federal Permits: Zambelli Fireworks will secure all necessary state, local and federal permits / required licenses.

Transportation Liability Coverage: \$5 Million dollars as required by United States Department of Transportation. (DOT)

Workers Compensation: Pyrotechnicians will meet all of the requirements of the Workers Compensation Laws of California.

Site Security and Fire Protection: Customer will assist in providing site security and make arrangements with the Authorities Having Jurisdiction.

Transportation: Fireworks and equipment will be delivered by qualified CDL drivers with Haz-Mat endorsed licenses as required by US DOT.

Personnel: Zambelli Certified Pyrotechnicians and Trained Assistants; no subcontractors used.

Safety Procedures: Zambelli Fireworks adheres to all safety regulations. NFPA 1123 code will be strictly enforced.

Zambelli

FIREWORKS

2023 Porterville Freedom Fest

SYNOPSIS FOR A TWENTY MINUTE DISPLAY

DEVICE DESCRIPTION	QUANTITY
ZAMBELLI MULTI SHOT DEVICES (CAKES)	
QUANTITY TWO EACH:	
35 Shot Rainbow Dahlias w/Assorted Colored Tails	70
35 Shot Variegated Moons w/Titanium Reports and Tail	70
35 Shot Gold Brocade Waterfalls w/Gold Tails	70
35 Shot Green and Purple Moon Fan Box w/Green Tail	70
35 Shot Rainbow Crossettes w/Assorted Color Tails Fan Box	70
35 Shot Dragon Egg Color Pearl W/ Color Tails Fan Box	70
QUANTITY TWO EACH:	
36 Shot Super Brocade w/Gold Tails Fan Box	72
36 Shot Rainbow Crossettes w/Assorted Color Tails Fan Box	72
36 Shot Variegated Chrysanthemum w/Palm and Silver Tails Fan Box	72
36 Shot Thunder Tourbillions w/Red and Blue Mines Fan Box	72
36 Shot Gold Brocade Waterfalls w/Gold Tails Fan Box	72
36 Shot Colorful Falling Leaves	72
QUANTITY TWO EACH:	
100 Shot Variegated Chrysanthemum w/Palm and Silver Tails	200
100 Shot Red Crackling and Green Glittering w/Purple Mines	200
100 Shot Silver Crackling Flowers w/Silver Tails	200
QUANTITY TWO EACH:	
400 Shot V-shaped Repeater W/Palm and Silver Tails	800
400 Shot V-shaped Repeater W/Comets and Reports	800
408 Z Shaped Colorful Pearl Zipper	816
136 Shot W-Shaped Brocade Crown	272
TOTAL NUMBER OF MULTI EFFECT SHOTS	3,340
TWO AND A HALF INCH DIAMETER SHELLS	
Two and Half Inch Zambelli Specialty Shells	100
Two- and Half-Inch Palm Shells	100
Two- and Half-Inch Tourbillion Shells	100
Two- and Half-Inch Dahlia Shells	100
Two- and Half-Inch Chrysanthemum Shells	100
Two- and Half-Inch Serpent Effect Shells	100
TOTAL NUMBER OF TWO AND HALF INCH DIAMETER SHELLS BODY	600
THREE INCH DIAMETER SHELLS	
Three Inch Zambelli Specialty Shells	50
Three Inch Palm Shells	50
Three Inch Tourbillion Shells	50
Three Inch Dahlia Shells	50
Three Inch Chrysanthemum Shells	50
Three Inch Serpent Effect Shells	50
TOTAL NUMBER OF THREE INCH DIAMETER SHELLS BODY	300
FOUR INCH DIAMETER SHELLS	
Four Inch Zambelli Specialty Shells	30
Four Inch Palm Shells	30
Four Inch Tourbillion Shells	30
Four Inch Dahlia Shells	30
Four Inch Chrysanthemum Shells	30
Four Inch Serpent Effect Shells	30
TOTAL NUMBER OF FOUR INCH DIAMETER SHELLS BODY	186
ZAMBELLI GRAND FINALE	
Two- and Half-Inch Assorted Color Finale Display Shells	150
Three Inch Titanium Salute Report Shells	150
Four Inch Assorted Color Finale Display Shells	36
TOTAL NUMBER OF GRAND FINALE SHELLS	336
<u>TOTAL NUMBER OF SHOTS/ SHELLS IN THE DISPLAY</u>	<u>5,562</u>

Zambelli

FIREWORKS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Allied Specialty Insurance, Inc. 10451 Gulf Blvd Treasure Island, FL 33706-4814	CONTACT NAME:	Michelle Kugler	
		PHONE (A/C, No, Ext):	727-547-3070	FAX (A/C, No):
		E-MAIL ADDRESS:	mkugler@alliedspecialty.com	
		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : T.H.E. Insurance Company		12866
INSURED	ZAMBELLI FIREWORKS MFG CO, INC., ETAL 120 Marshall Drive, Warrendale, PA 15086	INSURER B :		
		INSURER C :		
		INSURER D :		
		INSURER E :		
		INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			CPP0103167-05	02/01/2018	02/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 Protection & Indemnity \$ 1,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			CPP0103167-05	02/01/2018	02/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			ELP0011081-05 Excess P & I Included	02/01/2018	02/01/2019	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y / N <input type="checkbox"/> N / A	Coverage is afforded in the State(s) of:			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Inland Marine / Hull			CPP0103167-05	02/01/2018	02/01/2019	Hull Limit \$900,000 Show Limit \$1,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Display Date:

Rain Date:

Location:

RE: General Liability, the following are named as additional insured in respects to the negligence of the named insured, excess is follow form:

CERTIFICATE HOLDER

CANCELLATION

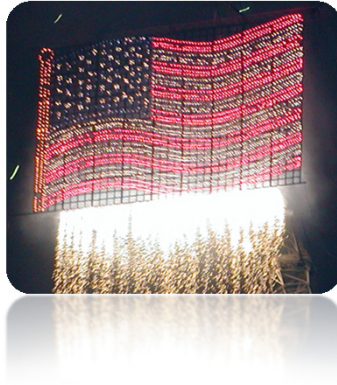
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Carol A. Serra

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City of Porterville



Presents

Celebrate Freedom **A Fireworks Extravaganza** **July 1st, 2023**

Produced by



"The Difference is Quality"

City of Porterville

Celebrate Freedom

July 1st, 2023

Announcement Barrage

Program A

Aerial Titanium Flash Salutes

3" 30

Color & Multi-Color Finale Shells

2.5" 30

Aerial Show Presentation

Color & Multi-Color Aerial Shells

3" 50

4" 50

Flitter, Glitter, Electric Color &
Color Changing Shells

3" 40

4" 40

Distinctive & Unique Aerial Shells

3" 30

4" 30

Streaking Comets & Tiger Tails

3" 10

Premium Aerial Shells

3" 30

4" 30

Bombardments

Program A

Multiple Shot Barrages: provide fabric and texture to your display keeping an excellent and exciting pace. Our high-powered devices provide an exciting ground-to-sky pyrotechnic tableau:

Total Shots **5250**

Aerial Grand Finale

Color & Multi-Color Finale Shells

2.5" 150

3" 100

4" 32

Aerial Titanium Flash Salutes

2.5" 50

Grand Totals

Aerial Shell Counts

2.5" 230

3" 290

4" 182

Units of Fire (from Bombardments)

5250

Total Shots **5952**

Program Price

Total Program Price Inclusive of
Insurance, Operator and
Transportation

Cost **\$35,000**



Fireworks America Products

"The Difference Is Quality"

Fireworks America has sought to affiliate itself with world renown-award winning manufacturers, both foreign and domestic. In every show you will find only the highest quality of products, designs, and variety which will far surpass those of our competitors.

Product Definitions Are:

Standard: Aerial Shells include: One color products and multiple colored products such as Chrysanthemums, Peonies, Hearts, Rings, Red, Green, Blue, Yellow, Purple, Orange, Variegated, etc. Our variety is unmatched and as such we can guarantee over 40 varieties in this category.

Compare to our competitors "Color", "Fancy", some "Extra Fancy", "Standard" or "Japanese Style Deluxe" Shells.

Classic: Aerial Shells include: Flitter, Glitter, Electric Color, Color Changing Transformation, Penny Glitter, Glitter & Color, Magnesium Red Electric, Red to Blue, Comets, etc. Our variety is unmatched and as such we can guarantee over 50 varieties in this category.

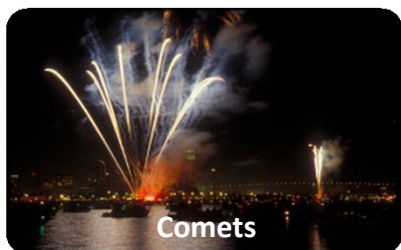
Compare to our competitors "Extra Fancy", "Floral", "Classic" or "Japanese Style Super Effect" Shells

Select: Aerial Shells include: Distinctive and Unique Aerial Shells such as Spiders, Multiple Reports, Strobes, Multiple Effect Shells, Domestic Glittering Comets, Double Hearts, Crackling Effects, Double Ring Shells, Saturn Shells, Tourbillion Shells, Waterfalls, Special Pattern Shells, Weeping Willow Shells, Shell of Shells, Coconut Palms, and Serpentine Shells, etc..

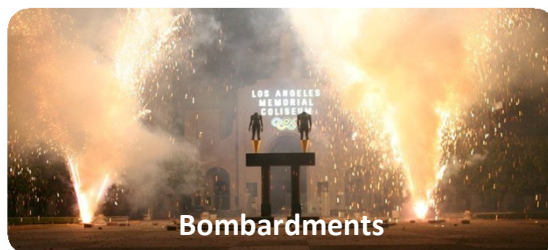
Compare to our competitors "Special" or "Japanese Style Special Effect" Shells.

Premium: Aerial Shells include: Crossettes, Serpents, Whistles, Whistles and Reports, Serpents and Strobes, Fish and Whistles, Tourbillions to Reports, Thunder and Rainbow, Serpents and Stars, Nishiki Kamuros, and many other American Made Specialty Shells.

Our competitors cannot compare with our Domestically-Made Superstars.



Comets



Bombardments



Vivid Colors

City of Porterville
Show Concept, Services List,
and Miscellaneous Details

Services List:

Fireworks America to Provide:

- 1) Permit Filings as Required
- 2) Storage and Delivery of fireworks
- 3) All Equipment to produce the display
- 4) Insurance Aggregate amount of \$10,000,000 (Combined Single Limits)
- 5) Worker's Compensation Insurance (Statute)

City of Porterville to Provide:

- 1) A Suitable Firing Site
- 2) Adequate Security for Firing Site
- 3) Permit Fees
- 4) Standby Firefighter Fees, if req'd
- 5) Sound System and Playback
- 6) Adequate Permit Time as listed below.

Minimum Time Required

Fireworks America will provide permitting services on your behalf. There are minimum times required to pull these permits. Contracts and deposits must be signed and back to us prior to starting these services. Here are the **minimum permit times.**

Land Based Shows based require a minimum of **30 days** to permit based on Local and State Ordinance, FAA and other requirements.

Please plan your show accordingly.

Operators and Assistants:

Fireworks America will provide the services of a State Licensed Pyrotechnic Operator and experienced crew to fire your display. The entire crew will be covered under Fireworks America's Worker's Compensation Insurance.

Payment Terms:

50% deposit is due on Contract Execution, Balance Net 10 days after display.

Method of Discharge:

The show will be fired Manually / Hand Fired.

2023 **PYRO** SPECTACULARS

by Souza®



Pyrotechnic Proposal

City of Porterville

July 1, 2023

April 27, 2023

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

Dear Ms. Graybehl,

Pyro Spectaculars, Inc. is happy to provide our pyrotechnic proposal for your July 1, 2023 event. The following proposal outlines your custom designed Program "A" for the amount of \$26,000.00 and Program "B" for the amount of \$22,000.00.

Our full service program includes necessary preproduction services, the services of a licensed pyrotechnic operator, specialized crew, an electronic firing system, and pyrotechnic safety equipment used for support and protection. The price also includes insurance coverage, sales tax, and delivery. To help ensure public safety, we work directly with the local fire authority, and we apply for the necessary fireworks related permits. Our winning combination of products, people, and production capabilities help produce the best fireworks entertainment package for your event.

Your organization will be responsible for payment of permit fees and/or standby firemen fees, if any. The Fire Department may bill you directly for any additional standby fees for inspections. Your organization will also be responsible for providing the display location, necessary security for the display site, and other event permits.

Please review the enclosed Proposal, Product Synopses, Production Agreements, and Scope of Work in detail. In order to reserve your program, it is imperative that you return the fully executed agreement of your choosing, your initial payment, and permit fees to our office by May 5, 2023, the price firm date in your production agreement. The program, pricing, and show date may not be available beyond the price firm date.

If you wish to discuss your program or need more information, please call either me or your Customer Service Representative Luis Ruiz at (909) 355-8120 ext. 227.

Sincerely,

PYRO SPECTACULARS, INC.

Jennifer Waite

Jennifer Waite
PYRO Show Producer

JW/lr

Enclosures

www.pyrospec.com



Pyro Spectaculars, Inc.

P.O. Box 2329 • Rialto, CA 92377 • Phone: (909) 355-8120 or (888) 477-PYRO • Fax: (909) 355-9813



Product Synopsis • Pyrotechnic Proposal

City of Porterville

PROGRAM A – July 1, 2023

\$26,000.00

Main Body - Aerial Shells

<u>Description</u>	<u>Quantity</u>
◆ 3" Souza Designer Selections	200
◆ 4" Souza Designer Selections	150

Total of Main Body - Aerial Shells 350

Pyrotechnic Devices

<u>Description</u>	<u>Quantity</u>
◆ Sousa Platinum Line Custom Multishot Device	300 Shots
◆ Sousa Diamond Line Custom Multishot Device	706 Shots
◆ Sousa Silver Line Custom Multishot Device	341 Shots
◆ Sousa Emerald Line Custom Multishot Device	1231 Shots

Total of Pyrotechnic Devices 2,578

Grand Finale

<u>Description</u>	<u>Quantity</u>
◆ 2.5" Souza Designer Bombardment Shells	72
◆ 3" Souza Designer Bombardment Shells	85
◆ 4" Souza Designer Bombardment Shells	60

Total of Grand Finale 217

Grand Total 3,145

Product descriptions are for specification of product quality, classification, and value. Final product selections will be based on availability, suitability, and overall artistic style.



Product Synopsis • Pyrotechnic Proposal

City of Porterville

PROGRAM B – July 1, 2023

\$22,000.00

Main Body - Aerial Shells

<u>Description</u>	<u>Quantity</u>
◆ 3" Souza Designer Selections	150
◆ 4" Souza Designer Selections	150

Total of Main Body - Aerial Shells 300

Pyrotechnic Devices

<u>Description</u>	<u>Quantity</u>
◆ Sousa Platinum Line Custom Multishot Device	300 Shots
◆ Sousa Diamond Line Custom Multishot Device	706 Shots
◆ Sousa Emerald Line Custom Multishot Device	1231 Shots
◆ Sousa Silver Line Custom Multishot Device	272 Shots

Total of Pyrotechnic Devices 2,509

Grand Finale

<u>Description</u>	<u>Quantity</u>
◆ 2.5" Souza Designer Bombardment Shells	36
◆ 3" Souza Designer Bombardment Shells	85
◆ 4" Souza Designer Bombardment Shells	30

Total of Grand Finale 151

Grand Total 2,960

Product descriptions are for specification of product quality, classification, and value. Final product selections will be based on availability, suitability, and overall artistic style.



PRODUCTION AGREEMENT

This agreement ("Agreement") is made this _____ day of _____, 2023 by and between **Pyro Spectaculars, Inc.**, a California corporation, hereinafter referred to as ("PYRO"), and City of Porterville, hereinafter referred to as ("CLIENT"). PYRO and CLIENT are sometimes referred to as "Party" or collectively as "Parties" herein.

1. **Engagement** - CLIENT hereby engages PYRO to provide to CLIENT one fireworks production ("Production"), and PYRO accepts such engagement upon all of the promises, terms and conditions hereinafter set forth. The Production shall be substantially as outlined in Program "A", attached hereto and incorporated herein by this reference.

1.1 **PYRO Duties** - PYRO shall provide all pyrotechnic equipment, trained pyrotechnicians, shipping, pyrotechnic products, application for specific pyrotechnic permits (the cost of which, including standby fees, shall be paid by CLIENT) relating to the Production, insurance covering the Production and the other things on its part to be performed, including preproduction services, all as more specifically set forth below in this Agreement and in the Scope of Work ("Scope of Work"), attached hereto, incorporated herein by this reference, and made a part of this Agreement as though set forth fully herein.

1.2 **CLIENT Duties** - CLIENT shall provide to PYRO a suitable site ("Site") for the Production, security for the Site as set forth in Paragraph 6 hereof, access to the Site, any permission necessary to utilize the Site for the Production, and the other things on its part to be performed as more specifically set forth below in this Agreement and in the Scope of Work. All Site arrangements are subject to PYRO's reasonable approval as to pyrotechnic safety, suitability, and security. All other conditions of the Site shall be the responsibility of CLIENT, including, but not limited to, access, use, control, parking and general safety with respect to the public, CLIENT personnel and other contractors.

2. **Time and Place** - The Production shall take place on July 1, 2023, at approximately 9:00 PM, at OHV Park East end of Park, 2701 W Scranton, Porterville, CA, Site.

3. **Fees, Interest, and Expenses** -

3.1 **Fee** - CLIENT agrees to pay PYRO a fee of \$26,000.00 USD (TWENTY-SIX THOUSAND DOLLARS) ("Fee") for the Production. CLIENT shall pay to PYRO an initial payment ("Initial Payment") equal to 50 % of the Production Fee \$13,000.00 USD (THIRTEEN THOUSAND DOLLARS) plus estimated permit and standby fees, and other regulatory costs approximated at \$00.00 OR an amount to be determined, for a total of \$13,000.00, upon the execution of this Agreement by both parties but no later than May 5, 2023. The Initial Payment is a partial payment toward the preproduction services and costs set forth in the Scope of Work ("Preproduction Services and Costs.") The balance of the Fee shall be paid no later than July 5, 2023. CLIENT authorizes PYRO to receive and verify credit and financial information concerning CLIENT from any agency, person or entity including but not limited to credit reporting agencies. The "PRICE FIRM" date, the date by which the executed Agreement must be delivered to Pyro, is set forth in paragraph 20.

3.2 **Interest** - In the event that the Fee is not paid in a timely manner, CLIENT will be responsible for the payment of 1.5% interest per month or 18% annually on the unpaid balance. If litigation arises out of this Agreement, the prevailing party shall be entitled to reasonable costs incurred in connection with the litigation, including, but not limited to attorneys' fees.

3.3 **Expenses** - PYRO shall pay all normal expenses directly related to the Production including freight, insurance as outlined, pyrotechnic products, pyrotechnic equipment, experienced pyrotechnic personnel to set up and discharge the pyrotechnics and those additional items as outlined as PYRO's responsibility in the Scope of Work. CLIENT shall pay all costs related to the Production not supplied by PYRO including, but not limited to, those items outlined as CLIENT's responsibility in this Agreement and Scope of Work.

4. **Proprietary Rights** - PYRO represents and warrants that it owns all copyrights, including performance rights, to this Production, except that PYRO does not own CLIENT-owned material or third-party-owned material that has been included in the Production, and as to such CLIENT-owned and third-party-owned material, CLIENT assumes full responsibility therefore. CLIENT agrees that PYRO shall retain ownership of, and all copyrights and other rights to, the Production, except that PYRO shall not acquire or retain any ownership or other rights in or to CLIENT-owned material and third-party-owned material and shall not be responsible in any way for such material. If applicable, CLIENT consents to the use of CLIENT-owned material and represents that it has or will obtain any permission from appropriate third parties sufficient to authorize public exhibition of any such material in connection with this Production. PYRO reserves the ownership rights in its trade names that are used in or are a product of the Production. Any reproduction by sound, video or other duplication or recording process without the express written permission of PYRO is prohibited.

5. **Safety** - PYRO and CLIENT shall each comply with applicable federal, state and local laws and regulations and employ safety programs and measures consistent with recognized applicable industry standards and practices. At all times before and during the Production, it shall be within PYRO's sole discretion to determine whether or not the Production may be safely discharged or continued. It shall not constitute a breach of this Agreement by PYRO for fireworks to fail or malfunction, or for PYRO to determine that the Production cannot be discharged or continued as a result of any conditions or circumstances affecting safety beyond the reasonable control of PYRO.

6. **Security** - CLIENT shall provide adequate security personnel, barricades, and Police Department services as may be necessary to preclude individuals other than those authorized by PYRO from entering an area to be designated by PYRO as the area for the set-up and discharge of the Production, including a fallout area satisfactory to PYRO where the pyrotechnics may safely rise and any debris may safely fall. PYRO shall have no responsibility for monitoring or controlling CLIENT's other contractors, providers or volunteers; the public; areas to which the public or contractors have access; or any other public or contractor facilities associated with the Production.

7. **Cleanup** - PYRO shall be responsible for the removal of all equipment provided by PYRO and clean up of any live pyrotechnic debris made necessary by PYRO. CLIENT shall be responsible for any other clean up which may be required of the Production or set-up, discharge and fallout areas including any environmental clean-up.

8. **Permits** - PYRO agrees to apply for permits for the firing of pyrotechnics only from the **PORTERVILLE FIRE DEPARTMENT**, FAA, and USCG, if required. CLIENT shall be responsible for any fees associated with these permits including standby fees. CLIENT shall be responsible for obtaining any other necessary permits, paying associated fees, and making other appropriate arrangements for Police Departments, other Fire Departments, road closures, event/activity or land use permits or any permission or permit required by any Local, Regional, State or Federal Government.

9. **Insurance** - PYRO shall at all times during the performance of services herein ensure that the following insurance is maintained in connection with PYRO's performance of this Agreement: (1) commercial general liability insurance, including products, completed operations, and contractual liability under this Agreement; (2) automobile liability insurance, (3) workers' compensation insurance and employer liability insurance. Such insurance is to protect CLIENT from claims for bodily injury, including death, personal injury, and from claims of property damage, which may arise from PYRO's performance of this Agreement, only. The types and amounts of coverage shall be as set forth in the Scope of Work. Such insurance shall not include claims which arise from CLIENT's negligence or willful conduct or from failure of CLIENT to perform its obligations under this Agreement, coverage for which shall be provided by CLIENT.

The coverage of these policies shall be subject to reasonable inspection by CLIENT. Certificates of Insurance evidencing the required general liability coverage shall be furnished to CLIENT prior to the rendering of services hereunder and shall include that the following are named as additionally insured: CLIENT; Sponsors, Landowners, Barge Owners, if any; and Permitting Authorities, with respect to the operations of PYRO at the Production. Pyrotechnic subcontractors or providers, if any, not covered under policies of insurance required hereby, shall secure, maintain and provide their own insurance coverage with respect to their respective operations and services.

10. **Indemnification** - PYRO represents and warrants that it is capable of furnishing the necessary experience, personnel, equipment, materials, providers, and expertise to produce the Production in a safe and professional manner. Notwithstanding anything in this Agreement to the contrary, PYRO shall indemnify, hold harmless, and defend CLIENT and the additional insureds from and against any and all claims, actions, damages, liabilities and expenses, including but not limited to, attorney and other professional fees and court costs, in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of PYRO, their officers, agents, contractors, providers, or employees. CLIENT shall indemnify, hold harmless, and defend PYRO from and against any and all claims, actions, damages, liability and expenses, including but not limited to, attorney and other professional fees and court costs in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of CLIENT, its officers, agents, contractors, providers, or employees. In no event shall either party be liable for the consequential damages of the other party.

11. **Limitation of Damages for Ordinary Breach** - Except in the case of bodily injury and property damage as provided in the insurance and indemnification provisions of Paragraphs 9 and 10, above, in the event CLIENT claims that PYRO has breached this Agreement or was otherwise negligent in performing the Production provided for herein, CLIENT shall not be entitled to claim or recover monetary damages from PYRO beyond the amount CLIENT has paid to PYRO under this Agreement, and shall not be entitled to claim or recover any consequential damages from PYRO including, without limitation, damages for loss of income, business or profits.

12. **Force Majeure** - CLIENT agrees to assume the risks of weather, strike, civil unrest, terrorism, military action, governmental action, and any other causes beyond the control of PYRO which may prevent the Production from being safely discharged on the scheduled date, which may cause the cancellation of any event for which CLIENT has purchased the Production, or which may affect or damage such portion of the exhibits as must be placed and exposed a necessary time before the Production. If, for any such reason, PYRO is not reasonably able to safely discharge the Production on the scheduled date, or at the scheduled time, or should any event for which CLIENT has purchased the Production be canceled as a result of such causes, CLIENT may (i) reschedule the Production and pay PYRO such sums as provided in Paragraph 13, or (ii) cancel the Production and pay PYRO such sums as provided in Paragraph 14, based upon when the Production is canceled.

13. **Rescheduling Of Event** - If CLIENT elects to reschedule the Production, PYRO shall be paid the original Fee plus all additional expenses made necessary by rescheduling plus a 15% service fee on such additional expenses. Said expenses will be invoiced separately and payment will be due in full within 5 days of receipt. CLIENT and PYRO shall agree upon the rescheduled date taking into consideration availability of permits, materials, equipment, transportation and labor. The Production shall be rescheduled for a date not more than 90 Days subsequent to the date first set for the Production. The Production shall not be rescheduled to a date, or for an event, that historically has involved a fireworks production. The Production shall not be rescheduled between June 15th and July 15th unless the original date was July 4th of that same year, or between December 15th and January 15th unless the original date was December 31st of the earlier year unless PYRO agrees that such rescheduling will not adversely affect normal business operations during those periods.

14. **Right To Cancel** - CLIENT shall have the option to unilaterally cancel the Production prior to the scheduled date. If CLIENT exercises this option, CLIENT agrees to pay to PYRO, as liquidated damages, the following percentages of the Fee as set forth in Paragraph 3.1. 1) 50% if cancellation occurs 30 or more days prior to the scheduled date, 2) 75% if cancellation occurs 15 to 29 days prior to the scheduled date, 3) 100% thereafter. In the event CLIENT cancels the Production, it will be impractical or extremely difficult to fix actual amount of PYRO's damages. The foregoing represents a reasonable estimate of the damages PYRO will suffer if CLIENT cancels the Production.

15. **No Joint Venture** - It is agreed, nothing in this Agreement or in PYRO's performance of the Production shall be construed as forming a partnership or joint venture between CLIENT and PYRO. PYRO shall be and is an independent contractor with CLIENT and not an employee of CLIENT. The Parties hereto shall be severally responsible for their own separate debts and obligations and neither Party shall be held responsible for any agreements or obligations not expressly provided for herein.

16. **Applicable Law** - This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with the laws of California. It is further agreed that the Central Judicial District of San Bernardino County, California, shall be proper venue for any such action. In the event that the scope of the Production is reduced by authorities having jurisdiction or by either Party for safety concerns, the full dollar amounts outlined in this Agreement are enforceable.

17. **Notices** - Any Notice to the Parties permitted or required under this Agreement may be given by mailing such Notice in the United States Mail, postage prepaid, first class, addressed as follows: PYRO - Pyro Spectaculars, Inc., P.O. Box 2329, Rialto, California, 92377, or for overnight delivery to 3196 N. Locust Avenue, Rialto, California 92377. CLIENT - City of Porterville, 291 N Main St., Porterville, CA 93257.

Pyro Spectaculars, Inc.
P.O. Box 2329
Rialto, CA 92377
Tel: 909-355-8120 :: Fax: 909-355-9813

City of Porterville
Program A
July 1, 2023
Page 3 of 4

18. **Modification of Terms** – All terms of the Agreement are in writing and may only be modified by written agreement of both Parties hereto. Both Parties acknowledge they have received a copy of said written Agreement and agree to be bound by said terms of written Agreement only.

19. **Severability** – If there is more than one CLIENT, they shall be jointly and severally responsible to perform CLIENT's obligations under this Agreement. This Agreement shall become effective after it is executed and accepted by CLIENT and after it is executed and accepted by PYRO at PYRO's offices in Rialto, California. This Agreement may be executed in several counterparts, including faxed and emailed copies, each one of which shall be deemed an original against the Party executing same. This Agreement shall be binding upon the Parties hereto and upon their heirs, successors, executors, administrators and assigns.

20. **Price Firm** – If any changes or alterations are made by CLIENT to this Agreement or if this Agreement is not executed by CLIENT and delivered to PYRO on or before the PRICE FIRM date shown below, or if the Initial Payment is not paid on or before the due date, then the price, date, and scope of the Production are subject to review and acceptance by PYRO for a period of 15 days following delivery to PYRO of the executed Agreement. In the event it is not accepted by PYRO, PYRO shall give CLIENT written notice, and this Agreement shall be void.

PRICE FIRM through May 5, 2023
EXECUTED AGREEMENT MUST BE DELIVERED TO PYRO BY THIS DATE.
See PRICE FIRM conditions, paragraph 20, above.

EXECUTED as of the date first written above:

PYRO SPECTACULARS, INC.

City of Porterville

By: James R Souza

By: _____

Its: President

Its: _____

Date: 4/28/2023

Print Name

Date: _____

SHOW PRODUCER: Jennifer Waite

SCOPE OF WORK
PYRO SPECTACULARS, INC. ("PYRO")
and
City of Porterville
("CLIENT")

Pyro shall provide the following goods and services to CLIENT:

- One Pyro Spectaculars, Inc., Production on July 1, 2023, at approximately 9:00 PM at OHV Park East end of Park, 2701 W Scranton, Porterville, CA.
- All pyrotechnic equipment, trained pyrotechnicians, shipping, and pyrotechnic product.
- Preproduction Services and Costs for the Production, including advance acquisition of materials and products; design, engineering, programming, handling, staging, storage, and maintenance of products, props, and systems; preparation of drawings, diagrams, listings, schedules, inventory controls, choreography, and computer code; picking, packing, labeling, staging, and loading of equipment, materials, and systems; transportation, and logistics and crew scheduling and support; explosive storage magazines with legally mandated distances, surfaces, security, housekeeping, and access controls; and necessary and appropriate vehicles, including legally mandated insurance, including MCS90 explosives transportation coverage, parking, security, and maintenance.
- Application for specific pyrotechnic permits relating to the Production.
- Insurance covering the preproduction and Production as set forth in the Agreement with the following limits:

<u>Insurance Requirements</u>	<u>Limits</u>	
<u>Commercial General Liability</u>	\$1,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Business Auto Liability- Owned, Non-Owned and Hired Autos</u>	\$5,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Workers' Compensation</u>	Statutory	
<u>Employer Liability</u>	\$1,000,000	Per Occurrence

CLIENT shall provide to PYRO the following goods and services:

- All on-site labor costs, if any, not provided or performed by PYRO personnel including, but not limited to, local union requirements, all Site security, Police and Fire Dept. standby personnel, stagehands, electricians, audio and fire control monitors, carpenters, plumbers, clean-up crew. All these additional personnel and services shall be fully insured and the sole responsibility of CLIENT.
- Coordination and any applicable non-pyrotechnic permitting with the local, state or federal government that may hold authority within the Production.
- Costs of all permits required for the presentation of the Production and the event as a whole.
- Provision of a Safety Zone in accordance with applicable standards and all requirements of the authorities having jurisdiction throughout the entire time that the pyrotechnics are at the Site or the load site (if different) on the date of the Production and all set-up and load-out dates, including water security to keep unauthorized people, boats, etc. from entering the Safety Zone.
- General Services including, but not limited to, Site and audience security, fencing, adequate work light, dumpster accessibility, a secure office for PYRO personnel within the venue, secure parking for PYRO vehicles, access to washrooms, tents, equipment storage, hazmat storage, electrical power, fire suppression equipment, access to worksites, necessary credentialing, etc., will be required as necessary.

PYRO-SPECTACULARS. Invoice

P.O. Box 2329 • Rialto, CA 92377 • (909) 355-8120

DATE	INVOICE #
4/27/2023	300

BILL TO
City of Porterville Amy Greybehl 291 N Main St. Porterville, CA 93257

SHIP TO

P.O. NO.	TERMS
	DUE: 5/5/2023

DESCRIPTION	AMOUNT
INITIAL PRODUCTION FEE FOR SPECIAL FIREWORKS DISPLAY PROGRAM "A" ON July 1, 2023	\$13,000.00
PAYMENT DUE: May 5, 2023	
FINAL PAYMENT DUE WILL BE INVOICED AT A LATER DATE	
Total \$13,000.00	

CUSTOMER

PRODUCTION AGREEMENT

This agreement ("Agreement") is made this _____ day of _____, 2023 by and between **Pyro Spectaculars, Inc.**, a California corporation, hereinafter referred to as ("PYRO"), and City of Porterville, hereinafter referred to as ("CLIENT"). PYRO and CLIENT are sometimes referred to as "Party" or collectively as "Parties" herein.

1. **Engagement** - CLIENT hereby engages PYRO to provide to CLIENT one fireworks production ("Production"), and PYRO accepts such engagement upon all of the promises, terms and conditions hereinafter set forth. The Production shall be substantially as outlined in Program "B", attached hereto and incorporated herein by this reference.

1.1 **PYRO Duties** - PYRO shall provide all pyrotechnic equipment, trained pyrotechnicians, shipping, pyrotechnic products, application for specific pyrotechnic permits (the cost of which, including standby fees, shall be paid by CLIENT) relating to the Production, insurance covering the Production and the other things on its part to be performed, including preproduction services, all as more specifically set forth below in this Agreement and in the Scope of Work ("Scope of Work"), attached hereto, incorporated herein by this reference, and made a part of this Agreement as though set forth fully herein.

1.2 **CLIENT Duties** - CLIENT shall provide to PYRO a suitable site ("Site") for the Production, security for the Site as set forth in Paragraph 6 hereof, access to the Site, any permission necessary to utilize the Site for the Production, and the other things on its part to be performed as more specifically set forth below in this Agreement and in the Scope of Work. All Site arrangements are subject to PYRO's reasonable approval as to pyrotechnic safety, suitability, and security. All other conditions of the Site shall be the responsibility of CLIENT, including, but not limited to, access, use, control, parking and general safety with respect to the public, CLIENT personnel and other contractors.

2. **Time and Place** - The Production shall take place on July 1, 2023, at approximately 9:00 PM, at OHV Park East end of Park, 2701 W Scranton, Porterville, CA, Site.

3. **Fees, Interest, and Expenses** -

3.1 **Fee** - CLIENT agrees to pay PYRO a fee of \$22,000.00 USD (TWENTY-TWO THOUSAND DOLLARS) ("Fee") for the Production. CLIENT shall pay to PYRO an initial payment ("Initial Payment") equal to 50 % of the Production Fee \$11,000.00 USD (ELEVEN THOUSAND DOLLARS) plus estimated permit and standby fees, and other regulatory costs approximated at \$00.00 OR an amount to be determined, for a total of \$11,000.00, upon the execution of this Agreement by both parties but no later than May 5, 2023. The Initial Payment is a partial payment toward the preproduction services and costs set forth in the Scope of Work ("Preproduction Services and Costs".) The balance of the Fee shall be paid no later than July 5, 2023. CLIENT authorizes PYRO to receive and verify credit and financial information concerning CLIENT from any agency, person or entity including but not limited to credit reporting agencies. The "PRICE FIRM" date, the date by which the executed Agreement must be delivered to Pyro, is set forth in paragraph 20.

3.2 **Interest** - In the event that the Fee is not paid in a timely manner, CLIENT will be responsible for the payment of 1.5% interest per month or 18% annually on the unpaid balance. If litigation arises out of this Agreement, the prevailing party shall be entitled to reasonable costs incurred in connection with the litigation, including, but not limited to attorneys' fees.

3.3 **Expenses** - PYRO shall pay all normal expenses directly related to the Production including freight, insurance as outlined, pyrotechnic products, pyrotechnic equipment, experienced pyrotechnic personnel to set up and discharge the pyrotechnics and those additional items as outlined as PYRO's responsibility in the Scope of Work. CLIENT shall pay all costs related to the Production not supplied by PYRO including, but not limited to, those items outlined as CLIENT's responsibility in this Agreement and Scope of Work.

4. **Proprietary Rights** - PYRO represents and warrants that it owns all copyrights, including performance rights, to this Production, except that PYRO does not own CLIENT-owned material or third-party-owned material that has been included in the Production, and as to such CLIENT-owned and third-party-owned material, CLIENT assumes full responsibility therefore. CLIENT agrees that PYRO shall retain ownership of, and all copyrights and other rights to, the Production, except that PYRO shall not acquire or retain any ownership or other rights in or to CLIENT-owned material and third-party-owned material and shall not be responsible in any way for such material. If applicable, CLIENT consents to the use of CLIENT-owned material and represents that it has or will obtain any permission from appropriate third parties sufficient to authorize public exhibition of any such material in connection with this Production. PYRO reserves the ownership rights in its trade names that are used in or are a product of the Production. Any reproduction by sound, video or other duplication or recording process without the express written permission of PYRO is prohibited.

5. **Safety** - PYRO and CLIENT shall each comply with applicable federal, state and local laws and regulations and employ safety programs and measures consistent with recognized applicable industry standards and practices. At all times before and during the Production, it shall be within PYRO's sole discretion to determine whether or not the Production may be safely discharged or continued. It shall not constitute a breach of this Agreement by PYRO for fireworks to fail or malfunction, or for PYRO to determine that the Production cannot be discharged or continued as a result of any conditions or circumstances affecting safety beyond the reasonable control of PYRO.

6. **Security** - CLIENT shall provide adequate security personnel, barricades, and Police Department services as may be necessary to preclude individuals other than those authorized by PYRO from entering an area to be designated by PYRO as the area for the set-up and discharge of the Production, including a fallout area satisfactory to PYRO where the pyrotechnics may safely rise and any debris may safely fall. PYRO shall have no responsibility for monitoring or controlling CLIENT's other contractors, providers or volunteers; the public; areas to which the public or contractors have access; or any other public or contractor facilities associated with the Production.

7. **Cleanup** - PYRO shall be responsible for the removal of all equipment provided by PYRO and clean up of any live pyrotechnic debris made necessary by PYRO. CLIENT shall be responsible for any other clean up which may be required of the Production or set-up, discharge and fallout areas including any environmental clean-up.

8. **Permits** - PYRO agrees to apply for permits for the firing of pyrotechnics only from the **PORTERVILLE FIRE DEPARTMENT**, **FAA**, and **USCG**, if required. **CLIENT** shall be responsible for any fees associated with these permits including standby fees. **CLIENT** shall be responsible for obtaining any other necessary permits, paying associated fees, and making other appropriate arrangements for Police Departments, other Fire Departments, road closures, event/activity or land use permits or any permission or permit required by any Local, Regional, State or Federal Government.

9. **Insurance** - PYRO shall at all times during the performance of services herein ensure that the following insurance is maintained in connection with PYRO's performance of this Agreement: (1) commercial general liability insurance, including products, completed operations, and contractual liability under this Agreement; (2) automobile liability insurance, (3) workers' compensation insurance and employer liability insurance. Such insurance is to protect **CLIENT** from claims for bodily injury, including death, personal injury, and from claims of property damage, which may arise from PYRO's performance of this Agreement, only. The types and amounts of coverage shall be as set forth in the Scope of Work. Such insurance shall not include claims which arise from **CLIENT**'s negligence or willful conduct or from failure of **CLIENT** to perform its obligations under this Agreement, coverage for which shall be provided by **CLIENT**.

The coverage of these policies shall be subject to reasonable inspection by **CLIENT**. Certificates of Insurance evidencing the required general liability coverage shall be furnished to **CLIENT** prior to the rendering of services hereunder and shall include that the following are named as additionally insured: **CLIENT**; Sponsors, Landowners, Barge Owners, if any; and Permitting Authorities, with respect to the operations of PYRO at the Production. Pyrotechnic subcontractors or providers, if any, not covered under policies of insurance required hereby, shall secure, maintain and provide their own insurance coverage with respect to their respective operations and services.

10. **Indemnification** - PYRO represents and warrants that it is capable of furnishing the necessary experience, personnel, equipment, materials, providers, and expertise to produce the Production in a safe and professional manner. Notwithstanding anything in this Agreement to the contrary, PYRO shall indemnify, hold harmless, and defend **CLIENT** and the additional insureds from and against any and all claims, actions, damages, liabilities and expenses, including but not limited to, attorney and other professional fees and court costs, in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of PYRO, their officers, agents, contractors, providers, or employees. **CLIENT** shall indemnify, hold harmless, and defend PYRO from and against any and all claims, actions, damages, liability and expenses, including but not limited to, attorney and other professional fees and court costs in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of **CLIENT**, its officers, agents, contractors, providers, or employees. In no event shall either party be liable for the consequential damages of the other party.

11. **Limitation of Damages for Ordinary Breach** - Except in the case of bodily injury and property damage as provided in the insurance and indemnification provisions of Paragraphs 9 and 10, above, in the event **CLIENT** claims that PYRO has breached this Agreement or was otherwise negligent in performing the Production provided for herein, **CLIENT** shall not be entitled to claim or recover monetary damages from PYRO beyond the amount **CLIENT** has paid to PYRO under this Agreement, and shall not be entitled to claim or recover any consequential damages from PYRO including, without limitation, damages for loss of income, business or profits.

12. **Force Majeure** - **CLIENT** agrees to assume the risks of weather, strike, civil unrest, terrorism, military action, governmental action, and any other causes beyond the control of PYRO which may prevent the Production from being safely discharged on the scheduled date, which may cause the cancellation of any event for which **CLIENT** has purchased the Production, or which may affect or damage such portion of the exhibits as must be placed and exposed a necessary time before the Production. If, for any such reason, PYRO is not reasonably able to safely discharge the Production on the scheduled date, or at the scheduled time, or should any event for which **CLIENT** has purchased the Production be canceled as a result of such causes, **CLIENT** may (i) reschedule the Production and pay PYRO such sums as provided in Paragraph 13, or (ii) cancel the Production and pay PYRO such sums as provided in Paragraph 14, based upon when the Production is canceled.

13. **Rescheduling Of Event** - If **CLIENT** elects to reschedule the Production, PYRO shall be paid the original Fee plus all additional expenses made necessary by rescheduling plus a 15% service fee on such additional expenses. Said expenses will be invoiced separately and payment will be due in full within 5 days of receipt. **CLIENT** and PYRO shall agree upon the rescheduled date taking into consideration availability of permits, materials, equipment, transportation and labor. The Production shall be rescheduled for a date not more than 90 Days subsequent to the date first set for the Production. The Production shall not be rescheduled to a date, or for an event, that historically has involved a fireworks production. The Production shall not be rescheduled between June 15th and July 15th unless the original date was July 4th of that same year, or between December 15th and January 15th unless the original date was December 31st of the earlier year unless PYRO agrees that such rescheduling will not adversely affect normal business operations during those periods.

14. **Right To Cancel** - **CLIENT** shall have the option to unilaterally cancel the Production prior to the scheduled date. If **CLIENT** exercises this option, **CLIENT** agrees to pay to PYRO, as liquidated damages, the following percentages of the Fee as set forth in Paragraph 3.1. 1) 50% if cancellation occurs 30 or more days prior to the scheduled date, 2) 75% if cancellation occurs 15 to 29 days prior to the scheduled date, 3) 100% thereafter. In the event **CLIENT** cancels the Production, it will be impractical or extremely difficult to fix actual amount of PYRO's damages. The foregoing represents a reasonable estimate of the damages PYRO will suffer if **CLIENT** cancels the Production.

15. **No Joint Venture** - It is agreed, nothing in this Agreement or in PYRO's performance of the Production shall be construed as forming a partnership or joint venture between **CLIENT** and PYRO. PYRO shall be and is an independent contractor with **CLIENT** and not an employee of **CLIENT**. The Parties hereto shall be severally responsible for their own separate debts and obligations and neither Party shall be held responsible for any agreements or obligations not expressly provided for herein.

16. **Applicable Law** - This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with the laws of California. It is further agreed that the Central Judicial District of San Bernardino County, California, shall be proper venue for any such action. In the event that the scope of the Production is reduced by authorities having jurisdiction or by either Party for safety concerns, the full dollar amounts outlined in this Agreement are enforceable.

17. **Notices** - Any Notice to the Parties permitted or required under this Agreement may be given by mailing such Notice in the United States Mail, postage prepaid, first class, addressed as follows: PYRO - Pyro Spectaculars, Inc., P.O. Box 2329, Rialto, California, 92377, or for overnight delivery to 3196 N. Locust Avenue, Rialto, California 92377. **CLIENT** - City of Porterville, 291 N Main St., Porterville, CA 93257.

Pyro Spectaculars, Inc.
P.O. Box 2329
Rialto, CA 92377
Tel: 909-355-8120 :: Fax: 909-355-9813

City of Porterville
Program B
July 1, 2023
Page 3 of 4

18. **Modification of Terms** – All terms of the Agreement are in writing and may only be modified by written agreement of both Parties hereto. Both Parties acknowledge they have received a copy of said written Agreement and agree to be bound by said terms of written Agreement only.

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PRICE FIRM through May 5, 2023
EXECUTED AGREEMENT MUST BE DELIVERED TO PYRO BY THIS DATE.
See PRICE FIRM conditions, paragraph 20, above.

EXECUTED as of the date first written above:

PYRO SPECTACULARS, INC.

City of Porterville

By:



By:

Its: President

Its:

Date:

4/28/2023

Print Name

Date:

SHOW PRODUCER: Jennifer Waite

SCOPE OF WORK
PYRO SPECTACULARS, INC. ("PYRO")
and
City of Porterville
("CLIENT")

Pyro shall provide the following goods and services to CLIENT:

- One Pyro Spectaculars, Inc., Production on July 1, 2023, at approximately 9:00 PM at OHV Park East end of Park, 2701 W Scranton, Porterville, CA.
- All pyrotechnic equipment, trained pyrotechnicians, shipping, and pyrotechnic product.
- Preproduction Services and Costs for the Production, including advance acquisition of materials and products; design, engineering, programming, handling, staging, storage, and maintenance of products, props, and systems; preparation of drawings, diagrams, listings, schedules, inventory controls, choreography, and computer code; picking, packing, labeling, staging, and loading of equipment, materials, and systems; transportation, and logistics and crew scheduling and support; explosive storage magazines with legally mandated distances, surfaces, security, housekeeping, and access controls; and necessary and appropriate vehicles, including legally mandated insurance, including MCS90 explosives transportation coverage, parking, security, and maintenance.
- Application for specific pyrotechnic permits relating to the Production.
- Insurance covering the preproduction and Production as set forth in the Agreement with the following limits:

<u>Insurance Requirements</u>	<u>Limits</u>	
<u>Commercial General Liability</u>	\$1,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Business Auto Liability- Owned, Non-Owned and Hired Autos</u>	\$5,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Workers' Compensation</u>	Statutory	
<u>Employer Liability</u>	\$1,000,000	Per Occurrence

CLIENT shall provide to PYRO the following goods and services:

- All on-site labor costs, if any, not provided or performed by PYRO personnel including, but not limited to, local union requirements, all Site security, Police and Fire Dept. standby personnel, stagehands, electricians, audio and fire control monitors, carpenters, plumbers, clean-up crew. All these additional personnel and services shall be fully insured and the sole responsibility of CLIENT.
- Coordination and any applicable non-pyrotechnic permitting with the local, state or federal government that may hold authority within the Production.
- Costs of all permits required for the presentation of the Production and the event as a whole.
- Provision of a Safety Zone in accordance with applicable standards and all requirements of the authorities having jurisdiction throughout the entire time that the pyrotechnics are at the Site or the load site (if different) on the date of the Production and all set-up and load-out dates, including water security to keep unauthorized people, boats, etc. from entering the Safety Zone.
- General Services including, but not limited to, Site and audience security, fencing, adequate work light, dumpster accessibility, a secure office for PYRO personnel within the venue, secure parking for PYRO vehicles, access to washrooms, tents, equipment storage, hazmat storage, electrical power, fire suppression equipment, access to worksites, necessary credentialing, etc., will be required as necessary.

PYRO-SPECTACULARS. Invoice

P.O. Box 2329 • Rialto, CA 92377 • (909) 355-8120

DATE	INVOICE #
4/27/2023	301

BILL TO
City of Porterville Amy Greybehl 291 N Main St. Porterville, CA 93257

SHIP TO

P.O. NO.	TERMS
	DUE: 5/5/2023

DESCRIPTION	AMOUNT
INITIAL PRODUCTION FEE FOR SPECIAL FIREWORKS DISPLAY PROGRAM "B" ON July 1, 2023	\$11,000.00
PAYMENT DUE: May 5, 2023	
FINAL PAYMENT DUE WILL BE INVOICED AT A LATER DATE	
Total	\$11,000.00

CUSTOMER



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Authorization to Apply and Receive Financing for the Consolidation of Del Oro Water Company

SOURCE: Public Works

COMMENT: The City provides public water services both to the City's residents (within City limits) and community residents outside City limits. As a result of local water quality impacts, the State Water Resources Control Board (Water Board) has sought out and encouraged the consolidation of surrounding private water systems. In this regard, the City has been in active communications to support consolidating two Del Oro Community Water Systems.

Del Oro was awarded a Funding Agreement to support these actions in January 2015, to address the water quality and quantity issues faced by the Grandview Gardens District and Del Oro East Plano water systems. The Planning Grant will develop the design, environmental, and legal documents necessary to consolidate with the City's water system.

The Grandview Gardens system is bounded by W. Merrill Avenue on the north, N. Westside Street on the west, N. Douglas Street on the east, and W. North Grand Avenue on the south. The Del Oro East Plano system is located east of S. Plano Street, and south of E. Worth Avenue, identified as Paul Street. The area served by the water company encompasses roughly ninety-nine (99) parcels within the water company service boundary.

Grandview Garden was annexed into the City on April 7, 2015, by Resolution No. 38-2015. Provisions for efficiently providing government services in a manner consistent with the City's Annexation and Municipal Services Objectives, Policies, and Procedures are detailed in Resolutions No. 74-2014 and 75-2014. The East Plano Water System on Paul Street is not within City Limits. However, it is located within the City's Urban Development Boundary (UDB) and will require Annexation or Extraterritorial Service Agreement to Serve.

The Water Board has acknowledged the following steps to respond in the consolidation process necessary to enter into a Funding Agreement with the City to bridge the gap from planning to construction to City Standards with the City as the lead agency. City staff has tentatively coordinated discussions of what a funding application would consist of; the funding for the planning review, design review, and construction of improvements to the water supply facilities of the City necessary to meet water quality requirements and system demands. The proposed improvements include new distribution mains to

provide water service to each customer served by the Del Oro Water Company, water meters, and fire hydrants. Pending the City Council's approval and authorization to proceed, Water Boards has provided a Preliminary Funding Award Notification for the Project for \$8,123,000.

After receiving a Preliminary Funding letter from the Water Board, a Resolution authorizing the application for a funding agreement and identifying the City's authorized representative by title is required. The funding agreement will also require a Resolution certifying that its decision-making body reviewed and considered an environmental determination to be completed by the City after the Funding Agreement has been issued for the Water Supply Project.

The staff recommendation is that the Council receive the Preliminary Funding Award Notification Letter for the City of Porterville, Grandview Gardens, and East Plano Consolidation with the City under the Expedited Drinking Water Grant Funding Program for improvements, including distribution mains to provide water service to each customer served by the Del Oro Water Company, water meters, and fire hydrants, with the completion of the identified Resolution, authorizing the Mayor or designee, the Public Works Director, to apply for and receive financing from the California State Water Resources Control Board for Planning, Design, and Construction of the Grandview Gardens and East Plano consolidation with the Porterville Project.

RECOMMENDATION:

That the City Council:

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

ATTACHMENTS:

1. Draft Resolution
2. Preliminary Funding Award Notification
3. Resolution No. 38-2015
4. Resolution No. 74-2014
5. Resolution No. 75-2014
6. Location Map

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2023

**A RESOLUTION OF THE COUNCIL OF THE CITY OF PORTERVILLE
AUTHORIZING THE PORTERVILLE CITY MAYOR OR DESIGNEE TO APPLY FOR
AND RECEIVE FINANCING FROM THE CALIFORNIA STATE WATER
RESOURCES CONTROL BOARD FOR THE PLANNING, DESIGN AND
CONSTRUCTION OF THE GRANDVIEW GARDENS AND EAST PLANO
CONSOLIDATION WITH PORTERVILLE PROJECT**

WHEREAS, the City of Porterville provides public water services to the City of Porterville (City); and

WHEREAS, the State Water Resources Control Board (State Water Board) encouraged the Del Oro Water Company to consolidate its Grandview Gardens and East Plano water systems with the City; and

WHEREAS, the proposed improvements include distribution mains, meters, and fire hydrants to provide water service to each customer served by Del Oro Water Company's Grandview Gardens and Del Oro Water Company's East Plano water systems.

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

SECTION 1: The City's Public Works Director (the "Authorized Representative") or designee is hereby authorized and directed to sign and file, for and on behalf of the City, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the Grandview Gardens and East Plano Consolidation with Porterville Project (the "Project").

SECTION 2: This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

SECTION 3: The Authorized Representative, or his/her designee, is designated to represent the City in carrying out the Entity's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

PASSED, APPROVED AND ADOPTED this 16th of May, 2023.

Martha A. Flores, Mayor

Attest:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

State Water Resources Control Board

May 8, 2023

Michael Knight
Public Works Director
City of Porterville
291 North Main Street
Porterville, CA 93257

PRELIMINARY FUNDING AWARD NOTIFICATION; CITY OF PORTERVILLE;
GRANDVIEW GARDENS AND EAST PLANO CONSOLIDATION WITH PORTERVILLE
PROJECT (PROJECT); EXPEDITED DRINKING WATER GRANT (EDWG) FUNDING
PROGRAM– ROUND 1; PROJECT NO. EDWG-5410010-019C

Dear Mr. Knight:

Your request for funding from the Division of Financial Assistance (Division) for the Project has been given preliminary approval. The Project has been reviewed by Division staff and determined to be eligible for funding per the EDWG Program Guidelines ([EDWG Guidelines](#)), as adopted by the State Water Board on March 8, 2023. Therefore, the Division has transferred the application to the EDWG Program. Funding is contingent upon submittal of the requested information and the development and execution of a grant agreement. The purpose of this funding is to replace the water distribution systems in Del Oro Grandview Gardens District and Del Oro East Plano District, and to consolidate these water systems into the City of Porterville. The Project has an overall cost estimate of approximately \$8,123,000.

Pete Stamas has been assigned as the Project Manager for this Project. You will be contacted by your assigned Project Manager to ensure that all conditions and requirements are addressed prior to execution of the grant agreement. We encourage your prompt response to any requests from our staff because unreasonable delays or failure to respond could result in withdrawal of this preliminary funding award.

The Division understands the importance of the Project and wants to ensure its successful and timely completion. To proceed with the process of developing a grant agreement, please provide the following documents within thirty (30) calendar days of this letter:

- Adopted Authorized Representative Resolution (applicants are encouraged to provide a draft resolution in accordance with the template prior to adoption to ensure it is acceptable)

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

- Draft Technical, Managerial, and Financial (TMF) Assessment Form
- Environmental Application Package for the EDWG Funding Program (if the California Environmental Quality Act [CEQA] process is complete) or the CEQA Planning Exemption Certification Form (if the CEQA process is not yet complete)
- Scope of Work
- Self-Certification Form
- Other information or documentation requested by the Project Manager

Additional information and forms are available on the [EDWG Program Page](#). The City of Porterville must provide the requested documents within thirty (30) calendar days following the date of this letter. Failure to provide the requested documents within this timeframe may jeopardize funding under the current round or result in removal from the EDWG Program.

Once the aforementioned documents are received in a form satisfactory to the Division, a grant agreement will be prepared for the Project. No reimbursement of eligible project-related costs will be issued until the grant agreement is executed, subject to the terms and conditions of the grant agreement.

The grant agreement will require that certain conditions be met prior to proceeding with bid solicitation and construction activities. Proceeding with the bid solicitation and/or construction prior to receiving authorization from the Project Manager may jeopardize funding for the Project. Any costs incurred are at your own risk until the grant agreement is executed and the Division has provided necessary approvals to proceed.

The provision of a grant agreement is contingent upon your timely submission of the documents listed above and on the Division's approval upon completion of review.

We look forward to working with you on this Project. Please contact the assigned Project Manager, Pete Stamas, with any questions at (916) 552-9983 or Pete.Stamas@waterboards.ca.gov.

Sincerely,



Meghan Tosney, Assistant Deputy Director
Division of Financial Assistance

cc: See next page

cc Adam Forbes
 Visalia District Engineer
 Division of Drinking Water

 Robert Fortino
 Corporate Executive Officer
 Del Oro Water Company

 Eli McFarland
 Water Resource Control Engineer
 Division of Drinking Water

 Reyna Rodriguez
 Water Resource Control Engineer
 Division of Drinking Water

RESOLUTION NO. 38 -2015

A RESOLUTION OF APPLICATION BY THE CITY OF PORTERVILLE REQUESTING
THAT THE LOCAL AGENCY FORMATION COMMISSION TAKE PROCEEDINGS FOR
ANNEXATION 474

WHEREAS, the City of Porterville desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, for Annexation 474; and

WHEREAS, the territory proposed to be annexed to the city totals approximately 96.3 acres, is substantially developed, surrounded, and is inhabited, and a description of the external boundary of the territory is set forth in Exhibit A attached hereto and by this reference incorporated herein; and

WHEREAS, this proposal is consistent with the Sphere of Influence for the affected city; and

WHEREAS, notice of this proposal was published in a newspaper of general circulation, *The Porterville Recorder*, and individually mailed to all property owners within and within a 300-foot radius surrounding the subject areas on March 14, 2015, which is 25 days in advance of the scheduled public hearing; and

WHEREAS, this proposal is made pursuant to Sections 56654 and 56375.3 of the California Government Code, inasmuch as

1. the subject territory does not exceed 150 acres in area
2. the territory constitutes an individual unincorporated island
3. the territory is substantially surrounded by the City of Porterville
4. the territory is substantially developed or developing
5. the territory is not prime agricultural land as defined by Section 56064
6. the territory will benefit from the change of organization and some properties within the territory already receive benefits in the form of utilities and services from the City of Porterville; and

WHEREAS, the reasons for this proposal are as follows:

1. To create a more definitive and organized city boundary. The City surrounds more than a square mile of islands as defined in §56375.3 of the Government Code. In the recently approved Municipal Services Review (Tulare LAFCo, October 1, 2014), LAFCo recommended that the City continue to pursue the annexation of the remaining County islands, as administratively feasible, to establish a more definitive and organized city limit boundary.
2. To efficiently provide government services in a manner consistent with the City's Annexation and Municipal Services Objectives, Policies, and Procedures (Resolutions 74-2014 and 75-2014). In light of the City's and LAFCo's policies,

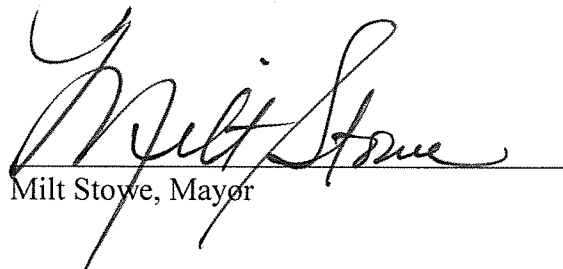
any property within an island is required to annex prior to provision of water. Staff is noting an increased number of residents asking about how to initiate the process because they want to connect to City water before summer, and are anticipating that their wells are nearly dry.

3. To ensure the provision of services and facilities needed to accommodate planned population densities in the project area. By annexing previously developed county islands, the City of Porterville will have a more proactive role in monitoring changes to urbanized land use in these areas and will be able to anticipate and coordinate development as areas experience infill development or modification to land uses.

WHEREAS, the conditions of the proposed annexation are limited to compliance with the Porterville Municipal Code and Porterville General Plan.

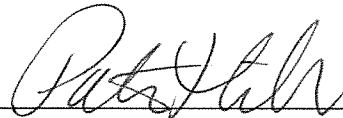
NOW, THEREFORE, BE IT RESOLVED, this Resolution of Application is hereby adopted and approved by the City Council of the City of Porterville. The Local Agency Formation Commission of Tulare County is hereby requested to take proceedings for the territory as described in Exhibit A, according to the terms and conditions stated above, and in the manner provided for by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

PASSED, APPROVED AND ADOPTED this 7th day of April, 2015.


Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 
Patrice Hildreth, Chief Deputy City Clerk

**City of Porterville
Annexation No. 474**

Description for Annexation

That portion of Sections 15 and 16, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, more particularly described as follows:

Beginning at the Center quarter corner of said Section 15, and a point on the existing City Limit Line,

Thence, along said City Limit line the following four (4) courses:

B1) Southerly, along the West line of the Southeast quarter of said Section 15, and said existing City Limit Line, 30 feet more or less, to an intersection with the South right of way line of Merrill Avenue, thence;

B2) Easterly along said existing City Limit Line, South right of way line of Merrill Avenue and the North line of Lot 1, Lot 27, Lot 28, and Lot 43 of Tract No. 313, recorded in Volume 23, Page 25, of Maps, Tulare County Records, 626.34 feet more or less, to an intersection with the West right of way line of Douglas Street, thence;

B3) Southerly, along said existing City Limit Line, West right of way line of Douglas Street, the East line of Lots 36 through 43 of said Tract No. 313 and the East line of Lots 1 through 9 of Tract No. 375, recorded in Volume 23, Page 86, of Maps, Tulare County Records, 1247.19 feet more or less, to an intersection with the North right of way line of North Grand Avenue, thence;

B4) Westerly, along said existing City Limit Line and said North right of way line of North Grand Avenue, 3279 feet more or less, to an intersection with the West right of way line of Newcomb Street, thence;

B5) Northerly, along said West right of way line of Newcomb Street, 1274 feet more or less, to an intersection with the North line of the Southeast quarter of said Section 16, thence;

B6) Easterly, along the North line of said Southeast quarter, 30 feet more or less to the East quarter corner of said Section 16, thence;

B7) Easterly, along the North line of the Southwest quarter of said Section 15, a distance of 2642 feet more or less, to the **Point of Beginning**.

Containing 96.3 acres more or less.



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 7th day of April, 2015.

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 NO. 74 -2014

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

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

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

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

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

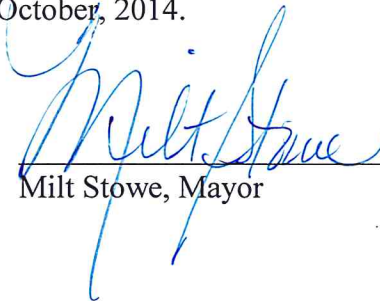
1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city,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

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

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

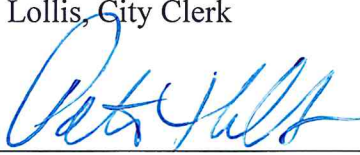
2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville,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

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


Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 
Patrice Hildreth, Chief Deputy City Clerk

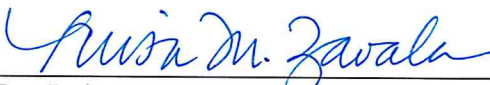
STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at regular meeting of the Porterville City Council duly called and held on the 21st day of October, 2014.

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

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

JOHN D. LOLLIS, City Clerk


By: Luisa M. Zavala, Deputy City Clerk

RESOLUTION NO. 75 -2014

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

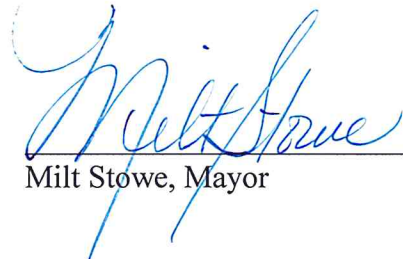
WHEREAS: The City Council of the City of Porterville, acknowledging that over time policies and procedures must be evaluated and reconsidered in light of changes to the regulatory environment and physical setting of the community, adopted a resolution defining objectives and policies for annexations and municipal services; and

WHEREAS: The evaluation of applications and service requests has long been delegated to staff, a practice that has the potential to lend itself to inconsistent implementation of succinctly defined procedures; and

WHEREAS: Local, regional, and state laws have changed since the Council's last review of policies and procedures related to annexations and extension of municipal services.


NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define procedures to submit application for annexations and municipal services, and to have said application(s) processed as outlined in Exhibit "A," attached.

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


Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 
Patrice Hildreth, Chief Deputy City Clerk

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, application for Development Agreement (to be enacted only in the event of failed annexation attempt), 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 Development Agreement.

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, application for Development Agreement, 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 Development Agreement 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 expense.
 - 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 expense.
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 fully fund 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 to 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 fully fund 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 to 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.

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

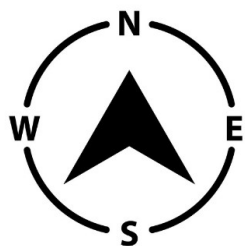
I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at regular meeting of the Porterville City Council duly called and held on the 21st day of October, 2014.

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

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

JOHN D. LOLLIS, City Clerk


By: Luisa M. Zavala, Deputy City Clerk



Del Oro Water Company
Water Consolidation Project Area
Location Map



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Approval of State Senate Bill 1 (SB1) Project List for Fiscal Year 2023-2024

SOURCE: Engineering and Project Management

COMMENT: In April 2017, the State Legislature passed and then Governor Brown signed Senate Bill 1 (SB1), which was enacted to address basic road maintenance, rehabilitation, and critical safety needs on both the State highway and local streets and roads system.

The legislation created funding in the Road Maintenance and Rehabilitation Account (RMRA), which will be made available for local streets and roads projects prioritized for expenditures on basic road maintenance and rehabilitation projects. RMRA funding must be used for projects "that include, but are not limited to," the following:

- a. Road maintenance and rehabilitation
- b. Safety projects
- c. Railroad grade separations
- d. Traffic control devices
- e. Complete streets components, including "active transportation purposes, pedestrian bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project

RMRA funds may also be used to satisfy match requirements in order to obtain State or Federal funds for eligible projects.

Local agencies are required to submit a yearly project list to the California Transportation Commission (CTC) to show where RMRA funds will be spent. The project list must be approved by Resolution through the agency's governing body. Failure to submit a project list will cause a city to lose that year's apportionment. The City will submit an annual report of completion to the CTC to show that RMRA funds were spent properly.

Cities can expect to receive approximately \$1,000,000 of RMRA funds per fiscal year, which for Fiscal Year 2023-2024, the City is expected to receive an apportionment of \$1,548,748. To receive the RMRA allocation, the City is required to sustain a Maintenance of Effort (MOE) by spending at least the annual average of its General Fund expenditures for streets and transportation purposes during the 2009-2010, 2010-2011, and 2011-2012 Fiscal Years. The MOE amount required by the City of Porterville each fiscal year to receive its RMRA funds apportionment is \$693,653.

For Fiscal Year 2023-2024, staff recommends that RMRA funds be allocated to the Main Street Reconstruction Project between Putnam Avenue and Morton Avenue that has been listed in the attached draft Resolution as the design is complete and will be ready for construction by Summer 2023.

RECOMMENDATION: That the City Council:

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

ATTACHMENTS:

1. Draft Resolution
2. Fiscal Year 2023-2024 RMRA Projected Revenues by City
3. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____ - 2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR
2023-2024 FUNDED BY SB 1: THE ROAD REPAIR
AND ACCOUNTABILITY ACT OF 2017**

WHEREAS: Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS: SB 1 includes accountability and transparency provisions that will ensure the residents of the City of Porterville, hereinafter referred to as the “City” are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS: the “City” must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project’s completion, and the estimated useful life of the improvement; and

WHEREAS: the “City”, will receive an estimated \$1,548,748 in RMRA funding in Fiscal Year 2023-24 from SB 1; and

WHEREAS: this is the fifth year in which the “City” is receiving SB 1 funding and will enable the “City” to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS: the “City” has undergone a robust public process to ensure public input into our community’s transportation priorities/the project list; and

WHEREAS: the “City” used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS: the funding from SB 1 will help the “City” maintain and rehabilitate 216 miles of streets/roads, 16 bridges, and add active transportation infrastructure throughout the “City” this year and hundreds of similar projects into the future; and

WHEREAS: the 2020 California Statewide Local Streets and Roads Needs Assessment found that the “City’s” streets and roads are in an “Poor” condition and this revenue will help us increase the overall quality of our road system and, over the next decade, will help bring our streets and roads into an “at lower risk” to “good” condition; and

WHEREAS: the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The foregoing recitals are true and correct.
2. The following newly proposed and adopted project will utilize fiscal year 2023-2024 Road Maintenance and Rehabilitation Account revenues in their delivery.

Main Street Reconstruction

Reconstruction of roadway section of two-lane minor arterial roadway, .25 mile in length and 40 feet in width.

Located between Putnam Avenue and Morton Avenue

Estimated Useful Life between 15-20 years

Revised Anticipated Year of Construction Spring 2024

PASSED, APPROVED and ADOPTED this 16th day of May, 2023.

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

Local Streets and Roads - Projected FY2023-24 Revenues

Based on State Dept of Finance statewide revenue projections

Estimated January 2023

Estimated January 2023	Highway Users Tax Acct (HUTA) ⁽¹⁾ Streets & Highways Code					TOTAL HUTA	Road Mntnc Rehab Acct	TOTAL
	Sec2103 ⁽⁵⁾	Sec2105 ⁽³⁾	Sec2106 ⁽³⁾	Sec2107 ⁽³⁾	Sec2107.5 ⁽⁴⁾			
TULARE COUNTY								
DINUBA	248,992	164,883	93,309	198,046	6,000	711,231	621,145	1,332,376
EXETER	102,601	67,943	41,272	81,608	3,000	296,424	255,953	552,377
FARMERSVILLE	102,898	68,140	41,377	81,845	3,000	297,260	256,695	553,955
LINDSAY	125,819	83,318	49,525	100,075	3,000	361,737	313,873	675,610
PORTERVILLE	620,829	411,115	225,487	493,804	7,500	1,758,735	1,548,748	3,307,483
TULARE	688,322	455,809	249,478	547,487	7,500	1,948,596	1,717,117	3,665,713
VISALIA	1,408,027	932,399	505,312	1,119,936	10,000	3,975,674	3,512,523	7,488,197
WOODLAKE	75,787	50,186	31,740	60,280	2,000	219,993	189,060	409,053
TUOLUMNE COUNTY								
SONORA	51,519	34,116	34,125	40,978	1,000	161,737	128,521	290,257
VENTURA COUNTY								
CAMARILLO	701,135	464,293	295,204	557,678	7,500	2,025,810	1,749,080	3,774,890
FILLMORE	163,197	108,069	72,395	129,806	4,000	477,466	407,118	884,584
MOORPARK	358,827	237,616	153,423	285,409	6,000	1,041,274	895,145	1,936,419
OJAI	75,856	50,232	36,219	60,335	2,000	224,642	189,233	413,876
OXNARD	1,998,207	1,323,218	832,439	1,589,361	10,000	5,753,225	4,984,811	10,738,036
PORT HUENEME	219,948	145,650	95,900	174,945	5,000	641,443	548,690	1,190,133
SAN BUENAVENTURA	1,090,651	722,232	456,538	867,497	10,000	3,146,917	2,720,784	5,867,701
SANTA PAULA	306,119	202,713	131,592	243,485	6,000	889,909	763,658	1,653,566
SIMI VALLEY	1,250,072	827,801	522,568	994,299	10,000	3,604,741	3,118,483	6,723,224
THOUSAND OAKS	1,254,700	830,866	524,485	997,980	10,000	3,618,031	3,130,027	6,748,058
YOLO COUNTY								
DAVIS	642,808	425,670	268,545	511,286	7,500	1,855,809	1,603,577	3,459,386
WEST SACRAMENTO	523,579	346,716	219,625	416,452	7,500	1,513,872	1,306,143	2,820,015
WINTERS	73,547	48,703	34,976	58,499	2,000	217,725	183,474	401,199
WOODLAND	595,917	394,618	249,306	473,989	7,500	1,721,330	1,486,601	3,207,931
YUBA COUNTY								
MARYSVILLE	130,694	86,546	46,712	103,953	3,000	370,905	326,035	696,941
WHEATLAND	36,863	24,411	16,621	29,320	1,000	108,215	91,959	200,174
Statewide Total	\$ 327,861,000	\$ 217,110,500	\$ 128,363,518	\$ 266,002,500	\$ 2,709,500	\$ 942,047,018	\$ 817,896,000	\$ 1,759,943,018

Notes:

1. The Highway Users Tax is also known as the "Motor Vehicle Fuel Tax", the "Gasoline Excise Tax" and "Article XIX Revenues."
2. Rolling Hills has no public streets and is therefore not eligible for HUTA or RMRA allocations.
3. Str&HwysCode §§ 2103, 2105, 2106, 2107 and RMRA amounts are paid monthly. Includes special payments for snow removal.
4. Str&HwysCode § 2107.5 amounts are typically paid by the State Controller once per year in July.
5. Str&HwysCode § 2103 allocations replace the former Prop42 TCRF revenues. Previously adjusted annually by the BOE until July 2019.



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Consideration of Funding Recommendations and Reopening Request for Proposals for 2021 Permanent Local Housing Allocation (PLHA)

SOURCE: Community Development

COMMENT: 426-225

As presented to the City Council at its meeting on May 19, 2020, the California Department of Housing and Community Development (HCD) announced the availability of approximately \$195 million in funding for the Permanent Local Housing Allocation (PLHA) program Notice of Funding Allocation (NOFA). In order to access the funds, the City had to adopt a Five-year PLHA Plan.

On July 21, 2020, City Council adopted the Five-Year PLHA Plan. The plan allocates PLHA funding over the next five years, which is estimated to be approximately \$2,056,524.

On February 26, 2021, the City received the executed agreement for the Five-Year PLHA plan and Year 1 funding in the amount of \$3,425,754. An amendment to the 5-Year Plan was submitted with the Year 2 application and on December 10, 2021, the City of Porterville was notified by HCD that the City's amendment to the 5-year plan and application for second year funding was approved. The City received \$532,745 for year 2. Funding for the first two (2) years has been awarded via the RFP process and programs are underway.

On February 23, 2023, the City received an executed agreement for the 2021 (third year) PLHA funding in the amount of \$586,270.00, totaling \$1,461,769 for the first three (3) years.

On March 21, 2023, the City Council authorized the distribution of a Request for Proposals (RFP) for the PLHA Program, for the third year of the Five-Year PLHA Plan. The PLHA program proposes to (1) Provide operating costs for navigation centers; (2) Provide operating costs for emergency shelters and/or bridge housing programs; and (3) Support Permanent Housing Programs by providing operating costs for permanent supportive housing programs. On April 14th, an addendum to the RFP was issued to allow for administration costs up to 5% as an eligible expense.

In response to the RFP, the City received three (3) applications. Applications were received from Turning Point of Central California, Inc. (TPOCC) and Central California Family Crisis Center, (CCFCC), which were rated and ranked by the RFP review committee, resulting in the following funding

Item No. 8.

recommendations:

CATEGORY OF FUNDING	FUNDING RECOMMENDATION
Navigation Center	\$154,234.50
Emergency & Bridge Housing- PWC	\$154,234.50
Emergency Housing-CCFCC	\$153,163.00
PSH- Casa de Robles	<u>\$67,950.00</u>
Total	\$529,582.00

Funding recommendations for TPOCC will provide operational support for the Porterville Welcome Center for its Navigation Center, Bridge Housing and Emergency Housing Operations and for operation support for Permanent Supportive Housing (PSH) for the Casa de Robles II project. Funding recommendations for CCFCC will provide operational support for Emergency Housing.

The Permanent Supportive Housing (PSH) program operations category of the RFP is undersubscribed by \$52,701.50. Staff is seeking authorization to reopen the RFP to accept applications for the remaining PSH program operations funding, in addition to considering the approval of the funding recommendations as presented.

RECOMMENDATION: That the City Council:

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

ATTACHMENTS:

1. PLHA Year 3 Funding Recommendations
2. PLHA Year 3 RFP & Addendum 1
3. PLHA Approved 5-Year Plan

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Assistant City Manager

Final Approver: Patrice Hildreth, Deputy City Manager

Funding Recommendations - Year 3 PLHA

Eligible Category	Available Funding		Central California Family Crisis Center		Turning Point of Central California, Inc		Total Subscribed		Undersubscribed	
	<i>Dollar</i>	%	<i>Dollar</i>	%	<i>Dollar</i>	%	<i>Dollar</i>	%	<i>Dollar</i>	%
Administration	\$ 29,313.50	5%	\$ 6,595.50	1%	\$ 18,731.50	3%	\$ 25,327.00	4%	\$ 3,986.50	1%
Navigation Center	\$ 146,567.50	25%		0%	\$ 146,567.50	25%	\$ 146,567.50	25%	\$ -	0%
Emergency Housing & Bridge Housing	\$ 293,135.00	50%	\$ 146,567.50	25%	\$ 146,567.50	25%	\$ 293,135.00	50%	\$ -	0%
Permanent Supportive Housing	\$ 117,254.00	20%		0%	\$ 64,552.50	11%	\$ 64,552.50	11%	\$ 52,701.50	9%
TOTAL YEAR 3 PLHA GRANT	\$ 586,270.00	100%	\$ 153,163.00	26%	\$ 376,419.00	64%	\$ 529,582.00	90%	\$ 56,688.00	10%



CITY OF PORTERVILLE

REQUEST FOR PROPOSALS FOR PERMANENT LOCAL HOUSING
ALLOCATION (PLHA) THIRD YEAR FUNDING OF 2019-2023 FIVE YEAR
PLAN
RFP # No. 22/23-SR1944

The City of Porterville is seeking qualified nonprofit organizations and affordable housing developers to propose use of PLHA funds for projects that benefit individuals or families that are experiencing homelessness as described in eligible activities in this RFP.

Submittal:

One PDF file must be received by:
Wednesday, April 19, 2023, by 5:00 pm.
Via the Public Purchase Website:
www.publicpurchase.com, or
housing@ci.porterville.ca.us

Document Title:

RFP No. 22/23-SR1944 Permanent Local Housing Allocation (PLHA)
Third Year Funding of 2019-2023 Five Year Plan

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of the City of Porterville and will not be returned.

INQUIRIES:

Proposal forms may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the bid process will be handled electronically through the Public Purchase website. **Questions regarding this project are due no later than Monday, April 17, 2023.**

REQUEST FOR PROPOSALS (RFP) FOR FIVE YEAR PLHA PLAN

I. PROPOSED PROJECT

PROJECT TITLE: PLHA Five Year Plan (2019-2023) - Year 3 Funding

GRANTOR: California Department of Housing and Community Development (HCD)

PROPOSAL DUE DATE: April 19, 2023

AMOUNT AVAILABLE: Third year up to \$586,270 for single or multiple projects, with the possibility of additional funds to be available estimated at \$2,056,524 for the five-year plan.

Category Breakdown	2021
Allowable Administration (5%)	\$ 29,313.50
Navigation Center (25%)	\$ 146,567.50
Emergency Housing & Bridge Housing (50%)	\$ 293,135.00
Permanent – <i>Permanent Supportive Housing Operations</i> (20%)	\$ 117,254.00
	\$ 586,270.00

ADMINISTRATIVE ALLOWANCE: None. Activity Delivery time is allowed.

TIME PERIOD FOR CONTRACT: One-year grant term for operating or supportive service projects. Funding in 5yr Plan will be announced when received.

IMPORTANT DOCUMENTS:

Please read the following document located at: <https://www.hcd.ca.gov/grants-and-funding/programs-active/permanent-local-housing-allocation>

- Notice of Funding Announcement: Applicants must ensure that program design meets the 2022 HCD NOFA
- Permanent Local Housing Allocation Final Guidelines
- City of Porterville Permanent Local Housing Allocation Five-Year Plan (2019-2023): [https://www.ci.porterville.ca.us/departments/community_development/community_development_block_grant_program_\(cdbg\)/index.php](https://www.ci.porterville.ca.us/departments/community_development/community_development_block_grant_program_(cdbg)/index.php)

OBJECTIVE: In 2017, Senate Bill 2 (the Building Homes and Jobs Act) created the Permanent Local Housing Allocation (PLHA) program. The California Department of Housing and Community Development (HCD) announced the availability of approximately \$195 million in funding for the PLHA program Entitlement and Non-entitlement Local government formula component Notice of Funding Availability (NOFA). This is the 3rd year NOFA funded from moneys deposited in the Building Homes and Jobs Trust Fund (Fund) in calendar year 2021, pursuant to Senate Bill (SB) 2 (Chapter 364, Statutes of 2017). SB 2 established the Fund and authorizes the Department to allocate 70 percent of moneys collected and deposited in the Fund, beginning in calendar year 2019, to Local governments for eligible housing and homelessness activities. The intent of the bill is to provide a permanent, ongoing source of funding to Local

governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

The City of Porterville, as an Entitlement Local government, applied and received 2021 formula allocation of PLHA funds in the amount of \$586,270. The approximate PLHA five-year formula allocation amount is \$2,056,524. PLHA funds must be used to carry out one or more of the eligible activities.

The City of Porterville plans to use PLHA funds for three (3) priorities, distributed over three (3) possible activities that assist persons who are experiencing homelessness or at risk of homelessness. *§301(a)(6) Assisting persons who are experiencing or At-risk of homelessness, including, but not limited to, providing rapid re-housing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.*

The eligible activities in the City's five-year plan include:

1. Provide operating costs for navigation centers
2. Provide operating costs for emergency shelters and/or bridge housing programs.
3. Support Permanent Housing Programs:
 - a. Provide operating costs for permanent supportive housing programs.

II. ELIGIBLE APPLICANTS

Affordable Housing Developers and Nonprofit organizations are eligible to apply that can demonstrate institutional, managerial and financial capability to plan, manage and complete the program as described.

III. LOCAL CRITERIA

The recipient or sub-recipient must participate with local priority systems that are in place to include the following; HMIS for data collection, Coordinated Entry System (CES), and project must be financially feasible. Additionally, the activities funded must take place in the city limits of Porterville.

IV. ELIGIBLE ACTIVITIES

The applicant may apply for funding for one or more of the eligible activities.

OPERATING COSTS FOR NAVIGATION CENTERS

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

OPERATING COSTS FOR EMERGENCY SHELTERS AND/OR BRIDGE HOUSING PROGRAMS.

PLHA funds can be used for operating costs needed to run an emergency shelter and/or operating costs for a bridge housing beds, leading to permanent housing. This will assist in ensuring that low barrier beds for people who have been identified by the local Continuum of Care on Homelessness, the Kings/Tulare Homeless Alliance (KTHA) continue to be available.

PERMANENT HOUSING PROGRAMS: OPERATING COSTS FOR PERMANENT SUPPORTIVE HOUSING PROGRAMS (PSH)

Permanent housing is community-based housing, the purpose of which is to provide housing without a designated length of stay. PLHA funds may be used for operating costs. PSH can only provide assistance to individuals with disabilities and families in which one adult or child has a disability. Supportive services

designed to meet the needs of the program participants must be made available to the program participants. Placement or retention in housing must not be conditional upon participation in such services.

PSH Targets Chronically Homeless Individuals

To be eligible, proposed PSH projects must target chronically homeless individuals, as defined by HUD.

PSH is Low-barrier and Follows HUD Housing First Approach

To be eligible, proposed PSH projects must be low-barrier and follow the HUD Housing First Approach.

V. GENERAL ELIGIBILITY CRITERIA

Applicants must meet the minimum general eligibility criteria described below:

- Activities must take place in the City limits of Porterville
- Organizations must not discriminate on the basis of ethnicity, race, color, creed, religion, gender, national origin, age, disability, marital status, sexual orientation, gender identity, or Veteran's discharge status.
- Applicants must agree to use the CoC's CES as the sole referral source for each program component. The CES is the central access and referral point for all homeless individuals seeking housing in City of Porterville. This system will identify the most appropriate housing options while also prioritizing the most vulnerable individuals for placement into permanent housing. The system will then maintain a steady flow of referrals to all available housing options. To ensure these individuals have appropriate access to the program components, a project may need to modify its entrance criteria or use reasonable accommodation to admit tenants who would otherwise not be able to apply. By agreeing to use the coordinated entry system as the sole referral source, applicants agree to make reasonable accommodation to accept the referrals.
- Applicants must agree to operate projects under the "Housing First" model, meaning prospective tenants are not required to agree to participate in services prior to entering the housing nor can service participation be a requirement of tenancy. Tenants can be required to adhere to a standard market lease, and their tenancy should be supported by eviction prevention strategies, including the engagement of services as appropriate.
- Multiple organizations may apply as a collaborative or joint venture; however, a lead entity must be designated.
- Organizations must be able to demonstrate capacity to start operations within 90 days of contract award.
- Organizations must have adequate financial capacity to perform proposed operations on a reimbursement basis
- Organizations must submit reports and invoices in a timely manner.

VI. APPLICATION SUBMISSION REQUIREMENTS

APPLICATION PROCESS

Applications from this Request for Proposals (RFP) from Qualified Agencies will be accepted beginning Monday, March 27, 2023 through Wednesday, April 19, 2023. Agencies funded as a result of this RFP are expected to execute contracts with the City of Porterville by July 1, 2023 and begin program operations no later than 60 days from contract execution.

Respondents shall submit a complete RFP application, (including all attachments), to:

All proposals must be submitted in PDF format electronically to the City of Porterville, via the Public Purchase website, www.publicpurchase.com, or via email to housing@ci.porterville.ca.us and titled "RFP

No. 22/23-SR1944 Permanent Local Housing Allocation (PLHA) Third Year Funding of 2019-2023 Five Year Plan”.

The City will review and evaluate each qualification and proposal submission. The City reserves the right to obtain clarification or request additional information, including an interview. If an interview is required, they will be scheduled for April 20, 2023 to April 25, 2023 (excluding weekend). Proposals will be evaluated and ranked according to the following criteria:

Criteria	Points
Understanding of the project and scope of services	40
Experience in the disciplines directly relevant to the project and scope of services	30
Proposed budget and fee structure	30

Following an evaluation of the proposals, it is expected that the selected agency(ies) will be recommended to the City Council for approval. If approved by the City Council, a subrecipient agreement will be executed between the City of Porterville and the selected agency(ies).

The City of Porterville, as a unit of local government, reserves the right to reject any and/or all proposals, reserve the right to waive any formalities or irregularities in the proposal or evaluation process, and reserve the right to award contract(s) in the best interest of the City of Porterville. In addition, the City will not reimburse costs associated with the preparation or presentation of the proposals.

APPLICATION FORMAT

The submitted proposals should contain the following components:

- Applicant Information Form (Attachment A)
- Project Narrative
 - Program Description and Design
 - Management of Program
 - Fiscal Management
 - Diversity and Multicultural Competency
- Estimated Spending Plan and Revenue Summary Form (Attachment B)

APPLICANT INFORMATION FORM

See form in Attachment A.

PROJECT NARRATIVE

1. Program Description and Design (Limit your response to 3 pages)
 - a. Program Description
 - i. Provide a short, one or two sentence explanation of the purpose of this program and what the funds will be used on.
 - ii. Explain why the program is needed.
 - b. Provide a detailed description of your entire proposal as below:
 - i. Describe the scope of the project, including the number of households that will be served annually, the program services and financial assistance that will be offered to address housing and supportive service needs. Detail the program activities under this service model and how each one will help to achieve one or more of the eligible activities listed in the City of Porterville’s PLHA Five-Year Plan.

- ii. Describe annual outcomes the project expects to accomplish throughout the grant period.
 - iii. Describe how program services and/or other resources within your agency will be used to quickly reduce housing barriers and quickly engage participants in successfully maintaining housing stability.
 - iv. Describe how your project will achieve geographic dispersion and client choice in offering housing placements throughout the City of Porterville.
 - v. Describe the project timeline for program start-up, hiring staff, and achieving fully operational status.
 - vi. If the applicant is partnering with another organization to provide housing and/or services to project participants, list the names of the partners and provide information on the specific roles and responsibilities of each.
 - vii. Describe how you intend to measure program effectiveness in terms of outcomes to be achieved.
- c. Participants

Describe your agency's experience in the past two years providing services to persons who are experiencing homelessness or at risk of homelessness.

 - i. Describe how you determined the number of clients to be served with the funding requested in this application.
 - ii. Describe the population(s) you intend to serve. Explain how the target population is identified, qualified and monitored. How will the project link populations to units of non-time limited housing?
- d. Personnel
 - i. Describe the overall staffing plan to accomplish activities in the proposed program, including project leadership, reporting responsibilities, and daily program operations.
- e. Collaboration/Coordination

Describe any formal or informal coordination, partnerships, or collaborations with other organizations proposed in this application.

 - i. Will the proposed program use subrecipients and/or subcontractors? If yes, please list each partner agency, describe their role as either a subrecipient or contractor, describe what services and the frequency of services that will be offered by the partner agency, and provide a brief description of the partner agency's experience providing homelessness services.
 - ii. Describe the organization's ability to collect data electronically and your agency's plan to participate in HMIS and/or Coordinated Entry.
- 2. Fiscal Management (Limit your response to one page)
 - a. Please outline the organization's initial program budget, including the availability of other revenue sources. Complete the Estimated Spending Plan and Revenue Summary Form (Attachment B). If the sections do not apply to your program type or you are not requesting funds please enter \$0 or N/A. Do not leave sections blank.
 - b. As part of the organization's initial program budget, please identify all personnel who will provide direct or indirect support of the organization's proposed services. Include each position title, the number of staff positions within each position title, and the number of Full Time Equivalents (FTEs) within each position title category. Identify additional fund source(s) that pays for each staff member's salary. These positions should be the same as those listed in the Personnel section of the proposal.
 - c. Describe how the organization will assure the proper use and safeguarding of public funds and experience using government funds. Does your organization have policies and

- procedures regarding the financial operations of the organization? Have recent reviews or audits of the organization by a certified public accountant or other financial professional identified any weaknesses in the organization's financial internal controls? If so, please provide the written report identifying the weaknesses and describe how the organization has responded to correct weaknesses.
- d. Describe the organizations overall financial condition and the applicant's ability to fund potential cost overruns or other costs not anticipated in the project budget.
 - e. Provide copies of the last single audit and 990 filed
3. Diversity and Multicultural Competency (Limit your response to one page)
- Cultural Competency is defined as:
- Having a defined set of values and principles, and demonstrating behaviors, attitudes, policies and structures that enable the organization to work effectively in cross-cultural situations; and
 - Having the capacity to 1.) value diversity, 2.) conduct self-assessment, 3.) manage the dynamics of difference, 4.) acquire institutional knowledge, and 5.) adapt to diversity and the cultural contexts of the communities being served; and
 - Incorporating the above in all aspects of policy making, administration, practice, service delivery and involving consumers and key stakeholders.
- a. Explain your agency's philosophy and the specific efforts that are in place to assure that this project will be culturally competent and linguistically accessible for the population that will be served. Be sure to include the following information in your response:
 - i. Based on your understanding of the target population and subpopulation(s), describe how your project will be culturally relevant, sensitive, and linguistically accessible for the individuals or households that will be served, including efforts related to staffing, outreach and service design (i.e., how the project will help reduce barriers to housing and services for individuals of color and those households for whom English is not the primary language);
 - ii. Describe how the ethno-cultural backgrounds of your project staff and agency board reflect that of the identified population to be served and/or how your agency is working to broaden staff and board diversity and knowledge around cultural competency; and
 - iii. Describe any means or efforts that are in place to assess the cultural competency of your organization and make changes accordingly.

ESTIMATED SPENDING PLAN AND REVENUE SUMMARY FORM

See Attachment B.

VII. RESPONSIVENESS

All proposals will be reviewed to determine compliance with administrative requirements and instructions specified in this RFP. The Applicant is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive. The City of Porterville also reserves the right at its sole discretion to waive minor administrative irregularities.

ATTACHMENTS

A – Applicant Information Form

1. Project title:
2. Project location:
3. Number of households served on a given day: ____ Number of households served annually:
4. Number of individuals served on a given day: ____ Number of Individuals served annually:
5. a. This project is specifically designed to serve the following population: (Please be very specific and check only those that apply) <input type="checkbox"/> Homeless single adults <input type="checkbox"/> Homeless families with children <input type="checkbox"/> Homeless young adults (ages 18 - 25) 5. b. This project is specifically designed to serve the following subpopulation: (Please check all that apply) <input type="checkbox"/> Homeless households living on the streets <input type="checkbox"/> Homeless households living in shelters <input type="checkbox"/> Homeless households living in transitional housing <input type="checkbox"/> Persons who are chronically homeless <input type="checkbox"/> Persons with serious mental illness <input type="checkbox"/> Persons with significant drug/alcohol addictions <input type="checkbox"/> Persons with chronic medical condition(s) <input type="checkbox"/> Persons exiting the foster care system <input type="checkbox"/> Persons exiting criminal justice facilities <input type="checkbox"/> Persons exiting mental health or psychiatric inpatient facilities <input type="checkbox"/> Persons exiting residential chemical dependency treatment facilities
6. DUNS Number:
7. Federal Tax ID Number:
8. Contact Information for Project Applicant: Lead Applicant Agency: _____ Agency Mailing Address: _____

Total Annual Agency Operating Budget (for all activities of the applicant agency from all sources):

	Executive Director	Program Manager	HMIS Data Manager	Finance/Bookkeeper
Name				
Title				
Address (if different mailing then above)				
Phone				
FAX				
Email				

9. Applicant Type

- ☐ Nonprofit organization
☐ Affordable Housing Developer

10. Provide the caption, cause number, Court, Counsel, and general summary of any litigation pending or judgment rendered within the past three (3) years against the applicant, as applicable.

11. Indicate the extent, if any, to which the firm, association or corporation or any person in a controlling capacity or any position involving the administration of federal, state or local funds; is currently under suspension, debarment, voluntary exclusion, or determination of eligibility by any agency; has been suspended, debarred, voluntarily excluded or determined ineligible by any agency within the past three (3) years; does have a proposed debarment pending; has been indicted, convicted or has a civil judgment rendered against said person, firm, association or corporation by a court of competent jurisdiction in any matter involving fraud or misconduct with the past three (3) years.

B- Estimated Spending Plan and Revenue Summary Form

EXPENSES				REVENUES				
Payroll and Personnel Expenses				HUD Grants	Program Income	Other Revenue	Total Revenue	Difference (Rev. - Exp)
Salary and Wages	FTE's	Salary	Total Expenses					
Supervision								
Case Managers								
Navigators								
Support Staff								
Fringe Benefits (provide detail)								
FICA								
Workmans Comp								
Insurance								
Retirement								
Other								
Costs related to the provision of services								
Space costs								
Utilities								
Telephone/Communications								
Postage/delivery								
Office Expenses								
Local Travel								
Equipment and Furniture								
Supplies and materials								
Sub-total Personnel Costs								
Other Than Personnel Costs								

Rental Assistance Expenses			
Unit Type	FMR	# of units	Annual cost
0-BR			
1-BR			
2-BR			
3-BR			
4-BR			
5-BR			
Rental Assistance Total			

Other Financial Assistance			
Assistance Type	FTE's	Salary	Total Expenses
Rental application fees			
Utilities and Utility Deposits			
Moving Costs			
Security Deposits			
Other: _____			
Other: _____			
Other: _____			
Other: _____			
Sub-total Other Financial Assistance			
Sub-total expenses			

NOTE: Administrative Costs are not allowed, please make sure those costs are not included in your request.

TOTAL FUNDING REQUESTED



CITY OF PORTERVILLE

Addendum No. 1

Date of addendum: April 14, 2023

REQUEST FOR PROPOSALS FOR PERMANENT LOCAL HOUSING
ALLOCATION (PLHA) THIRD YEAR FUNDING OF 2019-2023 FIVE YEAR
PLAN
RFP # No. 22/23-SR1944

NOTICE TO ALL POTENTIAL RESPONDENTS

The Request for proposals (RFP) is modified as set forth in this addendum. The original RFP documents remain in full force and effect, except as modified by this Addendum, which is hereby made part of the RFP. Respondents shall take this Addendum into consideration when preparing and submitting its Proposal.

ALLOWABLE COSTS:

The Proposal Allowable costs has been changed as noted herein, and modifies to allow applicants to request Administration Costs as part of their request not to exceed 5% of the budget.

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES SCO ID:
STANDARD AGREEMENT - AMENDMENT

STD 213A (Rev 04/2020)

☒ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 9 PAGES

AGREEMENT NUMBER	AMENDMENT NUMBER	Purchasing Authority Number
20-PLHA-15103	2	

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

STATE AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR NAME

City of Porterville

2. The term of this Agreement is:

START DATE

02/24/2021

THROUGH END DATE

06/30/2030

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

\$1,461,769.00

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

Exhibit A, Authority, Purpose, and Scope of Work is hereby deleted in its entirety and replaced with new Exhibit A, Authority, Purpose and Scope of Work, Am. 2 (Rev. 12/2022) attached hereto and made a part hereof.

Exhibit E, Program-Specific Provisions and Special Conditions is hereby deleted in its entirety and replaced with new Exhibit E, Program-Specific Provisions and Special Conditions, Am. 2 (Rev. 12/2022) attached hereto and made a part hereof.

All other terms and conditions shall remain the same.

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

CONTRACTOR

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

City of Porterville

CONTRACTOR BUSINESS ADDRESS

291 N Main Street

CITY

Porterville

STATE

CA

ZIP

93257

PRINTED NAME OF PERSON SIGNING

Martha A. Flores

TITLE

Mayor

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED



02/09/2023

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Michael White

TITLE

Manager, Contracts Services Section

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED



2/23/2023

CALIFORNIA DEPARTMENT OF GENERAL SERVICE APPROVAL

EXEMPTION (If Applicable)

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

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

2. Purpose

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

3. Definitions

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

4. Scope of Work

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

EXHIBIT A

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

EXHIBIT A

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

EXHIBIT A

5. Department Contract Coordinator

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

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

6. Contractor Contract Coordinator

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

Authorized Representative Name:	Martha A. Flores
Authorized Representative Title:	Mayor of Porterville
Agency Name:	City of Porterville
Address:	291 North Main Street Porterville, CA 93257
Phone No.:	(559) 782-7466
Email Address:	mflores@portervilleca.gov

7. Effective Date, Term of Agreement, and Deadlines

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

EXHIBIT A

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

EXHIBIT E

PROGRAM-SPECIFIC PROVISIONS AND SPECIAL CONDITIONS

1. Program-Specific Provisions

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

Budget Detail:

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

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

Contractor has been awarded the following grant activity amounts for 2021: **\$586,270**

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

Payees:

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

Name: City of Porterville

Total Amount: \$1,461,769

Plan:

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

A. Priority 1: Navigation Center

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

EXHIBIT E

B. Priority 2: Emergency Shelter

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

C. Priority 3: Permanent Housing

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

EXHIBIT E

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

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

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

EXHIBIT E

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

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

2. Special Conditions

The following Special Conditions are applicable to this Standard Agreement:

None.



CITY COUNCIL AGENDA – MAY 16, 2023

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

SOURCE: Parks and Leisure Services

COMMENT: Staff submitted a State Off-Highway Vehicle (OHV) Grant application for the Fiscal Year 2023-2024 grant cycle in order to continue to receive State funding, which in this case would be for the development of a new OHV Park. The process entailed an online preliminary application and the ability for the public to review and comment on the preliminary application. 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 Development application is for \$1,730,535, of which \$1,000,000 is the grant request and \$730,535 would come from a local match. The project would consist of the construction of multiple OHV tracks, parking, spectator area, restroom, entry gate kiosk, maintenance building and landscaping. The project site of the new OHV Park would be on City-owned property approximately two miles southwest of its current location. The local match for the proposed grant would come from the sale of the current OHV Park. Grant awards will be announced August 7, 2023.

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

ATTACHMENTS:

1. Draft Resolution
2. Locator Map: Proposed New OHV Park

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____ - 2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING THE APPLICANT TO APPLY FOR GRANT FUNDS 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 to receive grant funding from the 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:

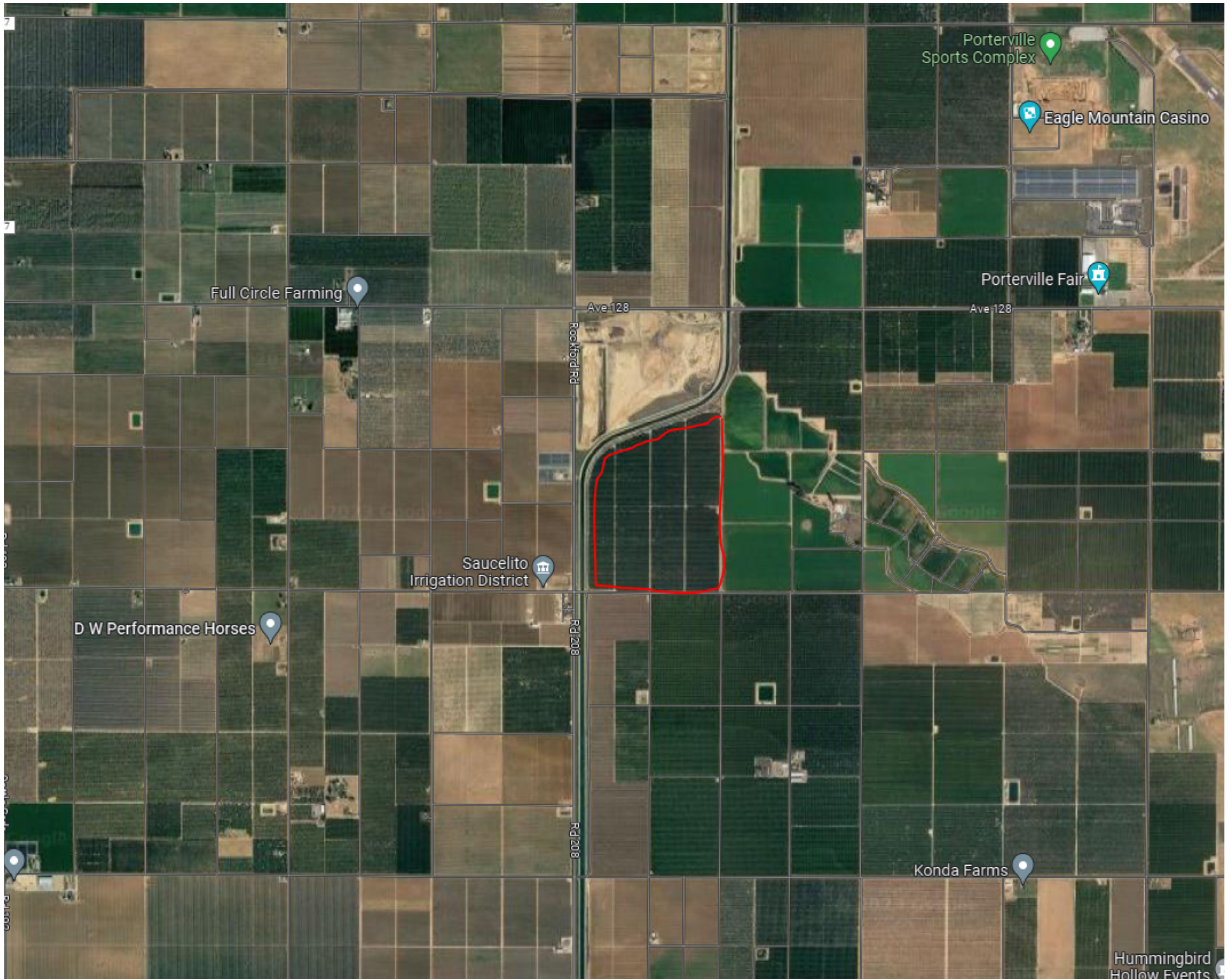
1. Approves the receiving of grant funding from the Off-Highway Vehicle Grant or Cooperative Agreement; and
2. Certifies that this agency understands its legal obligations to the State upon approval of the Grant; and
3. Certifies that this agency understands the California Public Resources Code requirement 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 16th day of May, 2023.

Martha A. Flores, Mayor

Attest:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk





CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Authorization of Street Closures for KJUG Free Summer Concert Series

SOURCE: Parks and Leisure Services

COMMENT: At its meeting on February 21, 2023, City Council authorized the City to sponsor the KJUG Concert Series to take place at Centennial Park on May 24, June 6 or 7 and June 21, 2022. The free concerts are anticipated to begin at 6:30 PM and be finished by 8:00 PM. Similar to previous KJUG concerts, City staff is recommending the same street closures as in past years to assure the safety of attendees. The attachment in the staff report shows the proposed street closures and traffic plan.

Additionally, because KJUG has not indemnified the City for past concerts, staff proposes to purchase special event coverage for the three concert dates at a cost not to exceed \$5,000 to be paid out of the Risk Management Fund.

RECOMMENDATION: That the City Council authorize the street closures for the KJUG Concerts on May 24, June 6 or 7 and June 21, 2023, and approve an expenditure not to exceed \$5,000 for special event liability coverage to be paid out of the Risk Management Fund.

ATTACHMENTS: 1. Traffic Control Diagram

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager





CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Authorization of Street Closure for Military Banner Ceremony

SOURCE: Parks and Leisure Services

COMMENT: The City's annual Military Banner Ceremony is scheduled for Friday, May 26, 2023, from 12:00 PM to 2:00 PM. The event will take place in Centennial Park, 296 N. Main Street, across from City Hall. The ceremony will recognize seventy-one (71) individuals that will have banners installed in their honor for the 2023 display period of the Military Banner Program.

In support of this event, it is requested that the City Council approve a temporary closure of Main Street between Thurman Avenue and Cleveland Avenue. This application has been reviewed by all involved City departments and staff comments are included for Council's consideration.

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

ATTACHMENTS: 1. Internal Civic Event Application

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

CITY OF PORTERVILLE

Internal Community Civic Event Application

For events primarily sponsored and organized by City Departments

Applications must be submitted for review at least 30 days prior to the event



APPLICANT DETAILS

First Name

Amy

Last Name

Graybehl

Department

Parks & Leisure

EVENT DETAILS

Name of Event

Military Banner Ceremony

Date

5/26/23

Location

Centennial Park

Description of Event

Ceremony to recognize the 2023 honorees from the Military Banner Program

Affiliated Organization(s)

N/A

Will food/ product be sold?

☐

Yes

☒

No

Will alcoholic beverages be served?

☐

Yes

☒

No

CITY SERVICES

Select the City services required for the event and provide a brief description if applicable.

<input checked="" type="checkbox"/>	Amplified Noise Permit	(If selected, please complete attached permit form)
<input type="checkbox"/>	Assembly Permit	Description
<input type="checkbox"/>	Traffic Safety Equipment (delineators, cones, etc.)	Description
<input type="checkbox"/>	Parks Facility Reservation	Description
<input type="checkbox"/>	Police Assistance	Description
<input type="checkbox"/>	Refuse Services	Description
<input checked="" type="checkbox"/>	Street/Parking Lot/ Sidewalk Closures	Main Street between Thurman Avenue and Cleveland Avenue
<input type="checkbox"/>	Street Sweeping	Description
<input type="checkbox"/>	Other	Description

STAFF COMMENTS

List special requirements or conditions for the event.

Administrative Services

No comments

Community Development

No comments

Engineering & Project Mangement

No comments

Finance

No comments

Fire Department

If there is a tent erected, please ensure it has the proper fire resistant tag affixed and is properly anchored as required by the Building division. Permits may be required prior to installation and the rental company should be properly licensed to operate in the City.

Parks & Leisure Services

Vehicles not on display to remain off the grass. All electrical outlets should be tested two days prior to the event.

Police Department

(Comments attached)

Public Works

No comments

CITY OF PORTERVILLE
Internal Community Civic Event Application

Military Banner Ceremony
May 26, 2023 / 10:00 AM—2:00 PM
Centennial Park

Proposed Conditions/Requirements of Police Department

- For the safety of pedestrians and vehicle traffic, it is my recommendation that Main Street, between Thurman Avenue and Cleveland Avenue, be closed for through vehicle traffic. All street closures require City Council approval.
- Ensure highly visible and adequate barricades/barriers are used to warn motorists of non-access to closed street, and prevent vehicle access to those designated areas.
- An "Outside Amplifier Permit" has been granted, however, event organizers shall not allow sound amplification so loud as to unreasonably disturb the peace and good order of any residents or business establishments in the surrounding area.
- At the conclusion of the event, event organizers shall ensure streets, sidewalks, and the park, are promptly cleared of any equipment, barricades, or anything that could present a hazard to pedestrians or vehicles traveling through this area.

Ron Moore, Lieutenant
Porterville Police Department



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: Amy Graybehl, 15 E. Thurman Ave., Ste A
- 2 Address where amplification equipment is to be used: Centennial Park, 296 N. Main St.
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Parks & Leisure Services
- 4 Type of event for which amplification equipment will be used: Ceremony
- 5 Dates and hours of operation of amplification equipment: May 26; 10 AM- 2:00 PM
- 6 A general description of the sound amplifying equipment to be used: PA system for emceeing

Section 18-9

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

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

Section 18-14

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

Penal Code Section 415 (2)

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

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

Amy Graybehl
Signature of Applicant

5/9/23
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.

Rick M53
City of Porterville, Chief of Police/Designee

5/10/2023
Date



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Parks and Leisure Services Commission Meetings

SOURCE: Parks and Leisure Services

COMMENT: The Parks and Leisure Services Commission has expressed an interest in going on hiatus for the months of July and August 2023 as it has done annually for the past several years. The Commission would be available to schedule a meeting with a seventy-two (72) hour notice should the need arise. This matter of taking a summer hiatus was considered and unanimously approved by the Parks and Leisure Services Commission at its meeting on May 4, 2023.

Pursuant to Chapter 19, Article I, Section 19-7 of the Porterville Municipal Code, the Commission is permitted to designate its date and time for meetings. It states, "The Commission shall hold meetings regularly and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings..."

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

ATTACHMENTS: 1. Chapter 19, Article I

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

ARTICLE I. IN GENERAL

SECTION:

19-1: Definitions

19-2: Parks And Leisure Services Commission Created; Composition; Function

19-3: Appointment

19-4: Term Of Office And Compensation

19-5: Member Appointed By Porterville Unified School District

19-6: Vacancies

19-7: Meetings; Records; Quorum

19-8: General Powers And Duties Of Commission

19-9: Driving Automobile, Golf Cart, Etc., Within Confines Of Golf Course

19-10: Presence Upon Golf Course When Closed To Public Declared Unlawful

19-11: Closing Hours In Parks

19-1: DEFINITIONS:

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

COMMISSION: The parks and leisure services commission.

DEPARTMENT: The parks and leisure services department.

DIRECTOR: The director of parks and leisure services. (Ord. 1114 § B, 8-5-1977)

19-2: PARKS AND LEISURE SERVICES COMMISSION CREATED; COMPOSITION; FUNCTION:

There is hereby created a park and leisure services commission, and said commission shall be composed of eight (8) members, who shall be residents of the city of Porterville. The park and leisure services commission shall serve in an advisory capacity to the city council. (Ord. 1114 § B, 8-5-1977; Ord. 1686 § 1, 1-17-2006)

19-3: APPOINTMENT:

Seven (7) of the said commission members shall be appointed by the mayor with the consent of a majority of the city council. (Ord. 1114 § B, 8-5-1977; Ord. 1686 § 2, 1-17-2006)

19-4: TERM OF OFFICE AND COMPENSATION:

Terms for all commissioners appointed shall be four (4) years, excepting the term for the first appointee by Porterville Unified School District as described in section 19-5 of this article and excepting the terms for the first appointees to the commission, which shall be as follows: four (4) commissioners shall be appointed to four (4) year terms and three (3) commissioners shall be appointed to two (2) year terms commencing July 1, 1977. The terms of commissioners first appointed shall be determined by lot at an organization meeting of the commission, to be held and conducted within a reasonable time after said appointments. All commissioners shall serve at the pleasure of the city council and may be removed by a majority vote of the city council at any time and for any reason. Members of the commission shall serve without compensation. No member of the commission shall serve more than two (2) consecutive four (4) year terms. (Ord. 1114 § B, 8-5-1977; Ord. 1686 § 3, 1-17-2006)

19-5: MEMBER APPOINTED BY PORTERVILLE UNIFIED SCHOOL DISTRICT:

One representative of the Porterville Unified School District shall be selected by the district to serve as a voting member of the commission, excepting the term for the first appointee which shall be as follows: the first

commissioner's term will commence March 1, 2005, and will terminate on October 31, 2007. The four (4) year term thereafter will commence on November 1, 2007. (Ord. 1114 § B, 8-5-1977; Ord. 1686 § 4, 1-17-2006)

19-6: VACANCIES:

Vacancies occurring otherwise than by expiration of terms shall be filled by appointment as in the first instance, such appointees to serve for the unexpired term of the vacant office. (Ord. 1114 § B, 8-5-1977)

19-7: MEETINGS; RECORDS; QUORUM:

The commission shall hold meetings regularly and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings and records of the commission shall be public. Five (5) members shall constitute a quorum for the transaction of business. (Ord. 1114 § B, 8-5-1977; Ord. 1686 § 5, 1-17-2006)

19-8: GENERAL POWERS AND DUTIES OF COMMISSION:

The commission:

- A. Shall advise the city council and the director on the management and control of parks, parkways and public grounds except as otherwise provided;
- B. May establish all reasonable rules and regulations for the protection of rights and property vested in the city and under control of the parks and leisure services department for the use, care and management of all parks, squares, avenues, grounds or recreation centers, and for the governing, use and enjoyment of any building, structure, equipment, apparatus or appliances therein; which rules and regulations shall be posted in some conspicuous place in the park, square, avenue, grounds or recreation center, or in or near the building, structure, equipment, apparatus or appliance to which the rule or regulation applies;
- C. May call upon the police department to assist in enforcing all ordinances, rules and regulations governing parks, squares, avenues, grounds or recreation centers as have been or may hereafter be established;
- D. Shall recommend schedules of charges for the golf course, swimming pools and all special services;
- E. Shall give due attention and study to park and leisure services as they affect the welfare of the people;
- F. Shall interpret the leisure and park services of the department to the community;
- G. Shall take initiative in planning for future park and leisure areas and facilities, as well as determining means of bringing present areas and facilities up to an acceptable standard;
- H. Shall serve as a sounding board against which the director and staff may test their plans and ideas;
- I. Shall recommend policy to the city council keeping in mind that the adoption of policy is the prerogative of the city council and that the director must have a free hand to carry on the work of the department within the framework of these policies;
- J. Shall define the objectives and goals of the department. (Ord. 1114 § B, 8-5-1977)

19-9: DRIVING AUTOMOBILE, GOLF CART, ETC., WITHIN CONFINES OF GOLF COURSE:

A. Restricted: It shall be unlawful for any person, other than a person engaged in the performance of his duties as a municipal employee, or a person who has hired from the Porterville golf course manager or golf professional a golf cart, to operate or drive any motorcycle, automobile, golf cart or other vehicle within the confines or upon the Porterville municipal golf course excepting therefrom that portion of said golf course designed and utilized for public parking.

B. "Golf Cart" Defined: For purposes of this section a "golf cart" is any vehicle, electric or gasoline propelled, that is customarily utilized in the playing of the game of golf.

C. Penalty: Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (Ord. 1093 § A, 6-15-1976)

19-10: PRESENCE UPON GOLF COURSE WHEN CLOSED TO PUBLIC DECLARED UNLAWFUL:

A. It shall be unlawful for any person to enter upon the Porterville municipal golf course for the purpose of playing or practicing the game of golf or to play or practice the game of golf on any day when said golf course is closed to play to the general public.

B. It shall be unlawful for any person to remain upon the Porterville municipal golf course on any day when the same is closed to play to the general public when instructed to leave or depart by the golf course manager, any of his agents or employees, or any officials, agents or employees of the city of Porterville.

C. Any person violating any of these provisions or failing to comply with any requirement of this section is guilty of a misdemeanor. Any person convicted of the misdemeanor under the provisions of this section shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 990 §§ 1-4, 1-5-1971)

19-11: CLOSING HOURS IN PARKS:

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

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

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



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Cancellation of Public Hearing to Consider Annexation

SOURCE: Community Development

COMMENT: A Public Hearing notice was posted in the Porterville Recorder on May 6, 2023, for the proposed annexation of three parcels (APNs 261-015-013, 261-015-015, 261-015-016) near the southeast corner of E. River Avenue and Plano Street, that was scheduled to be considered by the City Council at its meeting on May 16, 2023. The legal notice was inadvertently not mailed to the property owners within a three hundred (300) foot radius of the subject property as required by Porterville Development Ordinance (PDO) Chapter 601.05. Therefore, the Public Hearing will need to be cancelled and considered after being properly noticed. Staff will notice the Public Hearing in accordance with PDO 601.05 for a future meeting.

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

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Assistant City Manager

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Rescinding and Replacing Resolution No. 16-2023 Concerning Class A Driver's License Incentive Pay

SOURCE: Administrative Services

COMMENT: As the City Council will recall, at its meeting of April 18, 2023, the Council adopted Resolution No. 16-2023 approving a Side Letter which established incentive pay of 2.5% of base salary for employees in specific job classifications within Porterville City Employees Association (PCEA) and Management & Confidential Series (MCS) for attaining and retaining a Class A Driver's License.

Subsequent to the Council's action, staff was contacted by PCEA's representative who inquired about adding the additional classification of Field Service Worker II/III - Refuse. Staff sees value in expanding the eligibility for said incentive pay as some of the current refuse drivers already possess a Class A license.

Council acceptance and approval of the Side Letter Agreement is needed before staff executes the letter and it is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents that are necessary to implement the points of agreement contained in the letter.

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

ATTACHMENTS:

1. Draft Resolution
2. Resolution No. 16-2023

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE RESCINDING AND REPLACING RESOLUTION 16-2023
APPROVING A SIDE LETTER AGREEMENT BETWEEN THE
CITY OF PORTERVILLE AND PORTERVILLE CITY EMPLOYEES ASSOCIATION
("PCEA") AND MANAGEMENT & CONFIDENTIAL SERIES ("MCS")
AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN
ESTABLISHING INCENTIVE PAY FOR EMPLOYEES ATTAINING AND
RETAINING A CLASS "A" DRIVER'S LICENSE

WHEREAS, the City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan and Retirement Plan are essential for the proper administration of the City's affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS, the City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of the same; and

WHEREAS, in order to meet the needs of the City, on a regular basis it is necessary that City staff utilize trailers in excess of 10,000 pounds to move heavy equipment and other materials. In order to comply with provisions of the California Vehicle Code, employee drivers must possess a Class A Driver's License in order to haul these loads; and

WHEREAS, the City recognizes the additional educational requirements to employees who attain and retain a Class A Driver's License, as well as the legal impacts to these employees while off-duty, and desires to provide incentive pay for mutual benefit; and

WHEREAS, there has been concurrence on a Side Letter Agreement between the City, PCEA and MCS to amend the Employee Pay and Benefit Plan to establish incentive pay in this regard.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan shall be amended to establish incentive pay in specific classifications, as follows:

Porterville City Employees Association Classifications:

Field Services Worker II/III – Streets

Field Services Worker II/III – Refuse

Mechanic II

Parks Maintenance Worker I/II/III

Water Utility Worker I/II/III

Management & Confidential Series Classifications:

Field Services Superintendent – Streets

Field Services Superintendent – Refuse

Field Services Supervisor - Water

Parks Superintendent

Shop Superintendent

Water Systems Specialist

Water Utility Superintendent

Effective April 1, 2023, employees within the job classifications identified above are eligible to receive incentive pay of 2.5% of base salary to attain and retain a Class A Driver's License as conditioned herein.

Employees within the job descriptions identified above who currently possess and have possessed a Class A Driver's License and performed duties associated with said license since January 1, 2023, shall receive incentive pay of 2.5% of base salary retroactively effective to January 1, 2023, as conditioned herein.

The Class A Driver's License must be maintained in good standing to continue to receive this incentive pay. The intent of making this incentive pay available to employees is to provide a mutual benefit between the City and the eligible employee. If the employee is unable to perform the duties that require a Class A Driver's License for a period of time of sixty (60) days or longer due to any reason, including for a work-related or non-work-related injury, the incentive pay shall be suspended until such time as the employee returns to their performance of Class A driving duties.

All other terms and conditions previously negotiated and subsequently approved and implemented by appropriate authority shall, unless herein expressly modified or eliminated, remain in full force and effect until such time as they are subsequently modified or eliminated through the meet and confer process and mutually agreed upon by the City and bargaining units.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

PASSED, APPROVED AND ADOPTED this ____ day of May, 2023.

Martha A. Flores, Mayor

ATTEST:
John Lollis, City Clerk

By: _____
Fernando Gabriel-Moraga, Deputy City Clerk

RESOLUTION NO. 16 -2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE APPROVING A SIDE LETTER AGREEMENT
BETWEEN THE CITY OF PORTERVILLE AND
PORTERVILLE CITY EMPLOYEES ASSOCIATION (“PCEA”) AND
MANAGEMENT & CONFIDENTIAL SERIES (“MCS”)
AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN
ESTABLISHING INCENTIVE PAY FOR EMPLOYEES ATTAINING AND
RETAINING A CLASS “A” DRIVER’S LICENSE

WHEREAS, the City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan and Retirement Plan are essential for the proper administration of the City’s affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS, the City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of the same; and

WHEREAS, in order to meet the needs of the City, on a regular basis it is necessary that City staff utilize trailers in excess of 10,000 pounds to move heavy equipment and other materials. In order to comply with provisions of the California Vehicle Code, employee drivers must possess a Class A Driver’s License in order to haul these loads; and

WHEREAS, the City recognizes the additional educational requirements to employees who attain and retain a Class A Driver’s License, as well as the legal impacts to these employees while off-duty, and desires to provide incentive pay for mutual benefit; and

WHEREAS, there has been concurrence on a Side Letter Agreement between the City, PCEA and MCS to amend the Employee Pay and Benefit Plan to establish incentive pay in this regard.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan shall be amended to establish incentive pay in specific classifications, as follows:

Porterville City Employees Association Classifications:

Field Services Worker II/III

Mechanic II

Parks Maintenance Worker I/II/III

Water Utility Worker I/II/III

Management & Confidential Series Classifications:

Field Services Superintendent - Streets

Field Services Supervisor - Water

Parks Superintendent

Shop Superintendent

Water Systems Specialist

Water Utility Superintendent

Effective April 1, 2023, employees within the job classifications identified above are eligible to receive incentive pay of 2.5% of base salary to attain and retain a Class A Driver's License as conditioned herein.

Employees within the job descriptions identified above who currently possess and have possessed a Class A Driver's License and performed duties associated with said license since January 1, 2023, shall receive incentive pay of 2.5% of base salary retroactively effective to January 1, 2023, as conditioned herein.

The Class A Driver's License must be maintained in good standing to continue to receive this incentive pay. The intent of making this incentive pay available to employees is to provide a mutual benefit between the City and the eligible employee. If the employee is unable to perform the duties that require a Class A Driver's License for a period of time of sixty (60) days or longer due to any reason, including for a work-related or non-work-related injury, the incentive pay shall be suspended until such time as the employee returns to their performance of Class A driving duties.

All other terms and conditions previously negotiated and subsequently approved and implemented by appropriate authority shall, unless herein expressly modified or eliminated, remain in full force and effect until such time as they are subsequently modified or eliminated through the meet and confer process and mutually agreed upon by the City and bargaining units.

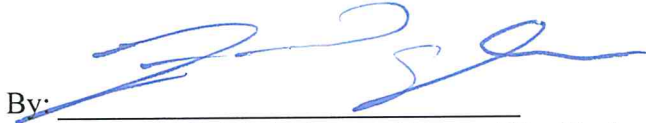
BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

PASSED, APPROVED AND ADOPTED this 18th day of April, 2023.



Martha A. Flores, Mayor

ATTEST:
John Lollis, City Clerk



Fernando Gabriel-Moraga, Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

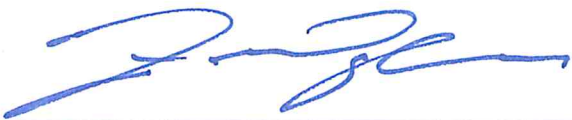
I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 18th day of April, 2023.

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

Council:	FLORES	CARRILLO	WEYHRAUCH	BELTRAN	MEISTER
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					



JOHN D. LOLLIS, City Clerk

By: 
Fernando Gabriel-Moraga, Deputy City Clerk



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Cancellation of July 4, 2023, City Council Meeting

SOURCE: Administrative Services

COMMENT: This year, the first Tuesday of July falls on July 4th. Given that this is the Independence Day holiday, staff presents this item for the City Council's consideration in cancelling the July 4th Council Meeting. In the event items arise that require Council action, a special meeting can be scheduled.

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

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Status and Review of Local Drought Emergency

SOURCE: City Manager's Office

COMMENT:

At its meeting of May 5, 2015, the City Council took action to approve a Resolution Declaring a Drought Emergency in the City of Porterville. At its meeting of May 2, 2023, the Council reviewed the status of existence of local emergency, and acted to continue its Resolution of local emergency.

Governor Brown issued Executive Order B-29-15 on Wednesday, April 1, 2015, which established drought-related mandates and restrictions in addition to those already stipulated in previous Executive Orders B-26-14 and B-28-14. Of significance, the Governor directed the State Water Resources Control Board to impose restrictions to achieve a statewide twenty-five percent (25%) reduction in potable urban water usage through February 28, 2016, in comparison to the amount used in 2013, and with consideration given to per capita usage as a basis. The Governor further directed the Board to impose additional restrictions on commercial, industrial, and institutional properties with significant landscaping (cemeteries, golf courses, parks, schools, etc.), to also achieve a twenty-five (25%) reduction in potable water usage. Also of significance, the Board was directed to prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems.

On November 13, 2015, Governor Brown issued Executive Order B-36-15, which extends emergency conservation regulations through October 2016, if drought conditions persist through January 2016. On February 2, 2016, the State Water Resources Control Board adopted extended emergency water conservation regulations, to be in effect March 1 through October 31, 2016.

The City of Porterville benefited somewhat from the extended regulations as the City's water conservation rate has been reduced from thirty-two percent (32%) to twenty-six percent (26%), due to new water connections that have been made and population served (4%), as well as a new climate adjustment factor that was considered (2%).

On May 9, 2016, Governor Brown issued Executive Order B-37-16 ("Making Water Conservation a California Way of Life"), which directs the State Water Resources Control Board to establish new regulations making permanent the emergency conservation regulations. On May 18, 2016, the State Water Resources Control Board adopted a statewide water conservation approach that replaces the percentage reduction-based water conservation standard with a

localized "stress test" approach that mandates urban water suppliers act immediately to ensure at least a three-year supply of water to their customers under continued drought conditions.

On April 7, 2017, Governor Brown issued Executive Order B-40-17, which ended the drought state of emergency in most of California, with the exception of Fresno, Kings, Tulare and Tuolumne counties where emergency water supply and reliability projects are continuing toward addressing diminishing groundwater supplies. The Order maintains monthly reporting requirements and prohibitions on wasteful practices.

On May 31, 2018, Governor Brown signed both AB 1668 (Friedman) and SB 606 (Hertzberg), which set permanent overall targets for indoor and outdoor water consumption. The legislation sets an initial limit for indoor water use of fifty-five (55) gallons per-person per-day in 2022, reducing to 52.5 gallons per-person per-day in 2025, and finally to fifty (50) gallons per-person per-day in 2030. The amount of residential outdoor use is yet-to-be determined, but will allow for varying regional climates. In addition, a standard for water loss due to leak rates in water system pipes will be established. As an urban water provider, the City will need to submit its plan for compliance for approval by the State Water Resources Control Board.

On March 5, 2021, Secretary Vilsack of the United States Department of Agriculture federally-designated Tulare County as a primary natural disaster area due to ongoing drought conditions. On April 21, 2021, Governor Newsom issued a State of Emergency Proclamation due to drought conditions, including Tulare County. On April 27, 2021, the Tulare County Board of Supervisors adopted a Resolution Proclaiming a Local Emergency due to severe drought conditions. On January 4, 2022, the State Water Resources Control Board adopted emergency regulations to supplement voluntary water conservation.

On March 28, 2022, Governor Newsom issued Executive Order N-7-22, that requires the state's largest water providers (including the City of Porterville) to put in place "Level 2" of water shortage contingency plans, which the City is currently in "Level 4." On June 10, 2022, the State Water Resources Control Board adopted emergency regulations to prohibit the watering of nonfunctional or purely decorative grass in commercial, industrial or institutional properties with potable water. On March 24, 2023, due to atmospheric river storms during the month of March 2023, Governor Newsom issued Executive Order N-5-23 that ended the requirement that the state's largest water providers (including the City of Porterville) put in place "Level 2" of water storage contingency plans (the City of Porterville is currently in "Level 4"), as well as ended the voluntary fifteen percent (15%) water conservation target.

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

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

Initially within the city of Porterville, twenty-six (26) residences within the city were determined to have dry wells, for which City staff submitted a Mutual Aid Request to Tulare County OES to initiate the household tank program for identified properties within the city where wells are dry and challenged for permanent connection. The State has committed funding for non-profit agencies to continue drought-related activities, which Self-Help Enterprises has continued the household tank program locally, through State Cleanup and Abatement Account (CAA) emergency funds.

Representatives for the City, County, State (CalOES, DDW, DWR, and SWB) and non-profit partners continued to meet in support of the long-term permanent water connection project for the entire East Porterville area and the estimated 1,800 expected future connections. DWR identified 423 residential units in the East Porterville area (381 of which are in the City's Urban Development Boundary), that were served by the County's Household Tank Program and desired by the State to be connected to the City's water distribution system as soon as possible. DWR has completed a significant City waterline extension project to permanently connect those 423 residential units to the City's water system (considered Phase I of the project). To provide initial source water for the DWR extension project, CalOES desired to expeditiously connect the new well on Olive Avenue to the City's water system instead of being first equipped as a filling station. Given the new well has an estimated water production value of 800 gallons per minute, as well as a SWB assumed 1.5 gallons per minute per residence, the new well could effectively serve up to five hundred (500) single-family residential units. The City indicated its significant interest that the E. Vandalia Avenue area and its eighty (80) residential units be included in the water connection project, to which the State was agreeable.

Given CalOES has paid for the development of the new well, and its connection to the City's water system, the City will be required under "Drought Redundancy and Resiliency Provisions" to make available to the State up to three million gallons of water per month without charge for emergency

purposes. On May 7, 2022, Tulare County OES notified the City that due to deteriorating conditions across the county involving small water systems dependent upon the Friant-Kern Canal that may result in the complete lack of water or "Do Not Drink" orders, the State and County may have to invoke the provision of water from the well.

To proceed with the connection of the new well to the City's water system and the 500 East Porterville and E. Vandalia Avenue residential units, the City Council approved modifications to the Draft Agreement between the City and County at its meeting on April 5, 2016, which the County Board of Supervisors subsequently approved at their meeting on May 10, 2016.

A Memorandum of Understanding between the State, County, and City on the East Porterville permanent water connection project was approved by the Council during a Special Meeting on Tuesday, June 21, 2016, and approved by the Board of Supervisors on Tuesday, June 28, 2016. With the approval of the MOU, the State began the permanent connection of approximately forty (40) homes that are located along existing City water mains. Subsequently, the State officially requested that the City approve the connection of an additional thirty (30) residences as part of the first immediate connections, for up to a total of seventy (70), which the Council approved at its meeting on August 2, 2016.

In regards to the new well's development and connection to the City's water distribution system, the Board of Supervisors awarded the contract for equipping and connecting the new well at its meeting on Tuesday, August 16, 2016, and construction activities commenced the week of October 10, 2016.

County staff had previously indicated that the well would be in service and connected to the City's system no later than December 2016, however, the well was operational and connected to the City's water distribution as of Friday, February 17, 2017. Given the delay in the well's completion and connection, DWR requested that the Council consider allowing the connection of residences as they become prepared for connection, to which the Council was receptive, and a Draft MOU Amendment was approved by the Council at its meeting on December 6, 2016, and subsequently approved by the Board of Supervisors at its meeting on December 20, 2016. City staff continued to work with County staff toward the transfer of the well's ownership from the County to the City, which at its meeting on April 20, 2021, the Council approved the draft Transfer Agreement subject to the City Attorney's final form.

As of Friday, March 31, 2017, the date the State established as the final day for property owners to complete the registration process to participate in the State-funded connection program opportunity, of the 1,017 eligible developed residential properties identified by the State for connection, 722 completed the required Extra-Territorial Services Agreement, leaving 295 developed residential properties non-responsive to this unique connection program, twenty-three (23) of which were reported as having either dry or diminishing capacity wells. On February 6, 2018, the final residential connection was made of the approximate eligible eight hundred (800) residences in East Porterville to the City's water system.

City staff continues to coordinate with Self-Help Enterprises and State representatives toward the extension of water mains to serve all residential properties within City limits and the city's periphery that are currently participating in the County's Household Tank Program. The two main areas of focus are N. Cobb Street (northwest of State Route 65 and Pioneer Avenue), and S. Cloverleaf Street (southeast of State Route 65 and Olive Avenue). The State has maintained its commitment to grant-fund the necessary infrastructure and connection fees, providing an official funding letter to the City on January 18, 2018, which commits up to \$2.81 million in funding until December 31, 2019. The authorization to advertise for bids for the water connection project was approved by the Council at its July 17th meeting, after which DWR reviewed the bid package for compliance and approved in December the package for advertisement. Council authorized award of the construction contract for approximately \$1.82 million at its meeting on January 15, 2019.

City staff conducted a pre-construction public outreach meeting with the affected residents on the status of the project on Thursday, April 4, 2019.

Council authorized the agreement with Self-Help Enterprises Inc. to provide the private residential connections at its meeting on July 2, 2019, and construction work began on the project. At its meeting on October 1, 2019, the Council accepted the public works segment of the project in the installation of water mains as complete, with Self-Help and CSET continuing to collaborate on the completion of the individual private connections and abandonment of private wells. City staff has recently been made aware that there may be a couple of additional residences whose wells are dry that are located along existing City water mains or may require further extension of water mains.

Staff is coordinating with State staff on addressing these new isolated needs.

County OES and the State Division of Drinking Water (DDW) have reported to the City that the Central Mutual Water Company, located south of the city and south of Gibbons Avenue, has had its well run dry and desires an immediate emergency connection to the City's water system to serve the forty-one (41) connections currently without water. DDW is wishing to support a financial application to upgrade the small water system to City standards (new water lines, meters ,etc.), and to sponsor an Urban Development Boundary (UDB) Amendment application to Tulare County Local Agency Formation Commission (LAFCO), given this area is currently outside the City's UDB but within the City's Urban Area Boundary (UAB). Given several private wells have run dry in this area, DDW is also attempting to sponsor their connection to the City's water system. For source water capacity for the connections, DWR will include these new connections within the East Porterville water connection capacity development projects. At its Special meeting on August 30, 2019, the City Council directed staff to proceed with the immediate emergency connection of the Central water system, with the permanent connection of the system contingent upon an Agreement with DDW to the sponsorship conditions they have offered. At its meeting on October 1, 2019, the Council directed staff to proceed with the amendment of the UDB to facilitate annexation, which a public meeting with the affected residents was conducted on Wednesday, October 9, 2019. At its meeting on April 21, 2020, the Council conducted a

Public Hearing and approved Resolutions of approval of the environmental determination and amendment to the UDB to facilitate annexation. At its meeting on June 1, 2021, the Council approved the State Water Board funding agreement for the development of a City-owned production well, distribution mains and water meters to serve each customer, as well as fire hydrants. On July 20, 2021, the City received notification from the State Water Board that the Akin/Central Water Consolidation Project funding agreement had been formally approved and executed.

DDW has also reported to the City that the Del Oro East Plano water system, located on Paul Street (southeast of the intersection of Plano Street and Worth Avenue), is experiencing problems with its existing well and have implemented severe water restrictions. The East Plano water system serves fourteen (14) residences and approximately forty-five (45) people. DDW is wishing to provide financial support to upgrade the small water system to City standards (new water lines, meters ,etc.), and for source water capacity for the connections, DDW would need to either pay appropriate fees and/or develop a capacity development project. The Council is aware that the Del Oro Grandview Gardens water system (north of W. North Grand Avenue) is also experiencing significant issues, and DDW may seek their future consolidation with the City's water system as well.

DDW has further reported to the City that the Beverly Grand Mutual Water Company water system, located north of West North Grand Avenue, is experiencing problems with its existing well and water quality issues, and desires its connection to the City's system to serve the thirty-one (31) residences the system serves. DDW is wishing to provide financial support to upgrade the small water system to City standards (new water lines, meters ,etc.), and for source water capacity for the connections, DDW has agreed to pay appropriate fees toward developing a capacity development project, which at its meeting of October 3, 2017, the Council approved a purchase agreement with Smee Homes, Inc. for the acquisition of property along the Tule River for the development of a new municipal well. At its meeting of October 1, 2019, the Council approved proceeding with the consolidation of the Beverly Grand water system.

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

ATTACHMENTS:

1. City of Porterville Resolution Declaring Local Drought Emergency: May 5, 2015
2. United States Department of Agriculture Drought Natural Disaster Area Designation: March 5, 2021
3. State of California State of Emergency Proclamation: April 21, 2021
4. County of Tulare Drought Local Emergency Resolution:

- April 27, 2021
5. State Water Resources Control Board: Emergency Regulation - Water Conservation; January 4, 2022
 6. Governor Newsom Executive Order N-7-22: March 28, 2022
 7. State Water Resources Control Board: Emergency Regulation - Water Conservation; June 10, 2022
 8. Governor Newsom Executive Order N-5-23: March 24, 2023
 9. State Water Resources Control Board Funding Agreement: Akin/Central Water Consolidation Project

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. 49-2015

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF PORTERVILLE DECLARING A DROUGHT EMERGENCY
WITHIN THE CITY OF PORTERVILLE

WHEREAS: in response to the ongoing severe drought, the State Water Resources Control Board approved an emergency regulation to ensure water agencies, their customers, and state residents increase water conservation in urban settings or face possible fines or other enforcement; and

WHEREAS: as we enter the fourth year of severe drought, long-term forecasts indicate no relief of the current drought conditions, and suggest a warmer-than-average summer, resulting in increased domestic demand for water; and

WHEREAS: public and private potable water supplies continue to be threatened due to decreasing supplies of groundwater caused by the precipitation deficit and an extended state of groundwater overdraft; and

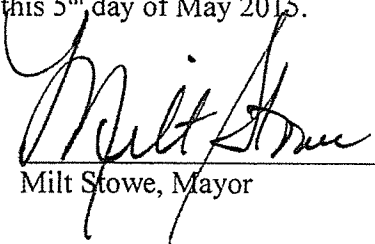
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

NOW, THEREFORE, BE IT RESOLVED: that the City Council of the City of Porterville does hereby proclaim that, due to drought conditions, a Local Emergency now exists in the city of Porterville and shall remain in effect for the duration of the emergency; and

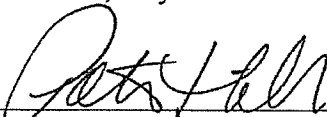
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance, to include a Presidential Declaration of Emergency and Individual Assistance and Public Assistance programs as applicable; and

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

PASSED, APPROVED, AND ADOPTED this 5th day of May 2015.


Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk


By: Patrice Hildreth, Chief Deputy City Clerk



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

March 5, 2021

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

Dear Governor Newsom:

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

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

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

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

Local FSA offices can provide affected farmers with further information.

Sincerely,

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

Thomas J. Vilsack
Secretary

Enclosure

Disaster Designation Areas for California and Contiguous States

Primary Counties:

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

Contiguous Counties:

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

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

Contiguous Counties in Adjacent States:

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

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

State of Emergency Proclamation

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

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

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

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

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

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

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

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

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

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

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

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

IT IS HEREBY ORDERED THAT:

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

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

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

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

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

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

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

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

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

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

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



GAVIN NEWSOM
Governor of California

ATTEST:

DR. SHIRLEY WEBER
Secretary of State

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

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

RESOLUTION NO. 2021-0290

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOES: NONE


ABSTAIN: NONE

ABSENT: NONE

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



BY:


Deputy Clerk

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

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

WHEREAS:

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

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

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

THEREFORE BE IT RESOLVED THAT:

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

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

CERTIFICATION

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

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

NAY: None

ABSENT: Chair E. Joaquin Esquivel

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Title 23. Waters

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

Chapter 3.5. Urban Water Use Efficiency and Conservation

Article 2. Prevention of Drought Wasteful Water Uses

§ 995. Wasteful and Unreasonable Water Uses.

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

Authority: Section 1058.5, Water Code.

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

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-7-22

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IT IS HEREBY ORDERED THAT:

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

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

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

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

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

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

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

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

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

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

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

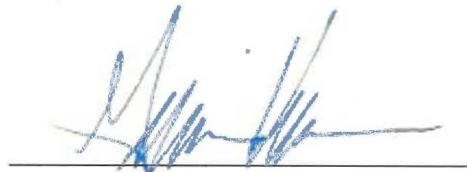
Groundwater Management Grant Program occurring on open and working lands to replenish and store water in groundwater basins that will help mitigate groundwater conditions impacted by drought, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Department of Water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

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

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

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

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



GAVIN NEWSOM
Governor of California

ATTEST:

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

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 996

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

Government Code Sections 11346.1 and
11349.6

OAL Matter Number: 2022-0606-03

OAL Matter Type: Emergency (E)

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

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

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

Date: June 10, 2022


Dale Mentink
Assistant Chief Counsel

For: Kenneth J. Pogue
Director

Original: Eileen Sobeck, Executive
Director

Copy: Garrett Lenahan

EMERGENCY

For use by Secretary of State only

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

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

JUN 10 2022

2:06 PM

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (If any)

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

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Water Demand Reduction Emergency Regulation		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 996 AMEND REPEAL	
TITLE(S) 23			
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only <input checked="" type="checkbox"/> Other (Specify) <u>Water Code Section 1058.5</u>			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON Garrett Lenahan		TELEPHONE NUMBER (916) 341-5179	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE
Eric Oppenheimer
TYPED NAME AND TITLE OF SIGNATORY
Eric Oppenheimer, Chief Deputy Director, State Water Resources Control BoardDATE
6/6/2022

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

JUN 10 2022

Office of Administrative Law

ADOPTED EMERGENCY REGULATION TEXT

Title 23. Waters

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

Chapter 3.5. Urban Water Use Efficiency and Conservation

Article 2. Prevention of Drought Wasteful Water Uses

§ 996. Urban Drought Response Actions

(a) As used in this section:

(1) "Commercial, industrial and institutional" refers to commercial water users, industrial water users, and institutional water users as respectively defined in Water Code, section 10608.12, subdivisions (e), (i), and (j), and includes homeowners' associations, common interest developments, community service organizations, and other similar entities but does not include the residences of these entities' members or separate interests.

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

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

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

(5) "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Non-functional turf does not include sports fields and turf that is regularly used for human recreational purposes or for civic or community events.

(6) "Plant factor" has the same meaning as in section 491.

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

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

(9) "Urban water supplier" has the same meaning as Water Code section 10617.

(10) "Water shortage contingency plan" means the plan required by Water Code section 10632.

(b) Each urban water supplier shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section 10632.1

of the Water Code no later than June 1, 2022 or the effective date of this section, whichever comes later, and submit a final annual water supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code.

(c) (1) Each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources shall implement by June 10, 2022, at a minimum, all demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2).

(2) Notwithstanding subdivision (c)(1), urban water suppliers shall not be required to implement new residential connection moratoria pursuant to this section.

(3) Notwithstanding subdivision (c)(1), an urban water supplier may implement the actions identified in subdivision (d) in lieu of implementing the demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code section 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2), provided the supplier meets all of the following:

(i) The supplier's annual water supply and demand assessment submitted to the Department of Water Resources demonstrates an ability to maintain reliable supply until September 30, 2023.

(ii) The supplier does not rely on, for any part of its supply, the Colorado River, State Water Project, or Central Valley Project, and no more than ten (10) percent of its supply comes from critically overdrafted groundwater basins as designated by the Department of Water Resources.

(iii) The supplier's average number of gallons of water used per person per day by residential customers for the year 2020 is below 55 gallons, as reported to the Board in the Electronic Annual Report.

(d) Each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources shall, by June 10, 2022, and continuing until the supplier has implemented all demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2), implement at a minimum the following actions:

(1) Initiate a public information and outreach campaign for water conservation and promptly and effectively reach the supplier's customers, using efforts such as email, paper mail, bill inserts, customer app notifications, news articles, websites, community events, radio and television, billboards, and social media.

(2) Implement and enforce a rule or ordinance limiting landscape irrigation with potable water to no more than two (2) days per week and prohibiting landscape irrigation with potable water between the hours of 10:00 a.m. and 6:00 p.m.

(3) Implement and enforce a rule or ordinance banning, at a minimum, the water uses prohibited by section 995. Adoption of a rule or ordinance is not required if the supplier has authority to enforce, as infractions, the prohibitions in section 995 and takes enforcement against violations.

(e) (1) To prevent the unreasonable use of water and to promote water conservation, the use of potable water is prohibited for the irrigation of non-functional turf at commercial, industrial, and institutional sites.

(2) Notwithstanding subdivision (e)(1), the use of water is not prohibited by this section to the extent necessary to ensure the health of trees and other perennial non-turf plantings or to the extent necessary to address an immediate health and safety need.

(3) Notwithstanding subdivision (e)(1), an urban water supplier may approve a request for continued irrigation of non-functional turf where the user certifies that the turf is a low water use plant with a plant factor of 0.3 or less, and demonstrates the actual use is less than 40% of reference evapotranspiration.

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

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

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 4080, 4100, 4110, and 4185, Civil Code; Section 8627.7, Government Code; Sections 102, 104, 105, 275, 350, 377, 491, 1058.5, 1122, 10608.12, 10617, 10632, and 10632.1, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Ranch Irrigation Co. v. State of California* (2020) 50 Cal.App.5th 976

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-5-23

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

WHEREAS the multi-year nature of the current drought, which began three years after the record-setting drought of 2012-2016, continues to have significant, immediate impacts on communities across California with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water; and

WHEREAS the March 3, 2023, snow survey conducted by the Department of Water Resources and partner agencies found that most regions of the Sierra Nevada are above average for snow water content, and some regions are nearing record amounts of snow, and snow and rain has fallen across many regions of the state since then, with more precipitation forecasted; and

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

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

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

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

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

WHEREAS next winter's hydrology is uncertain and the most efficient way to preserve the State's improved surface water supplies is for Californians to continue their ongoing efforts to make conservation a way of life; and

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

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

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my State of Emergency Proclamations dated April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, and Executive Orders N-7-22 (March 28, 2022), N-3-23 (February 13, 2023), and N-4-23 (March 10, 2023), remain in full force and effect, except as modified by those Proclamations and Orders and herein. State agencies shall continue to implement all directions from those Proclamations and Orders and accelerate implementation where feasible.
2. The following provisions of my State of Emergency Proclamation dated April 21, 2021, are terminated:
 - a. Paragraph 2;
 - b. Paragraphs 5-7; and
 - c. Paragraphs 9-14.
3. The following provisions of my State of Emergency Proclamation dated May 10, 2021, are terminated:
 - a. Paragraph 1;
 - b. Paragraph 3;
 - c. Paragraph 5; and
 - d. Paragraphs 9-10.
4. The following provisions of my State of Emergency Proclamation dated July 8, 2021, are terminated:
 - a. Paragraph 2;
 - b. Paragraphs 7-8, except those portions of paragraph 7 withdrawing provisions of prior orders;
 - c. Paragraphs 11-12.

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

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

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

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

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

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

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

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

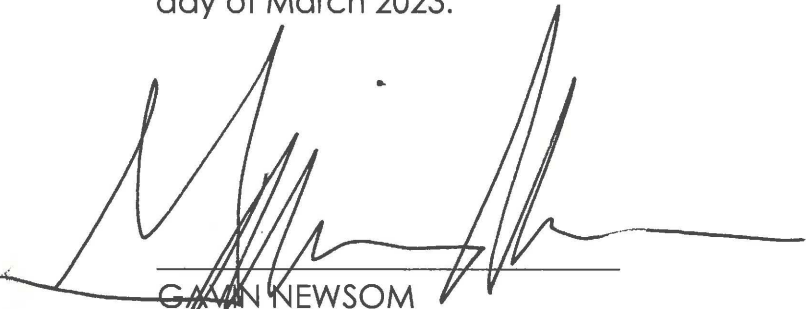
9. Paragraph 6 of my State of Emergency Proclamation dated May 10, 2021, and Paragraph 9 of my State of Emergency Proclamation dated July 8, 2021, are withdrawn and replaced with the following text:

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

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

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

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 24th day of March 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

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



DRINKING WATER CONSTRUCTION LOAN

AGREEMENT NO. SWRCB0000000000D2002017

by and between

CITY OF PORTERVILLE ("Recipient")

and

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ("State Water Board")



for the purpose of the

AKIN/CENTRAL WATER CONSOLIDATION PROJECT
5410010-018C AND 5400655-001C ("Project")

- Section 116760 et seq. of the Health and Safety Code and Resolution Nos. 2019-0065 and 2020-0022.

PROJECT FUNDING AMOUNT: \$4,787,664
PRINCIPAL FORGIVENESS COMPONENT: \$4,787,664

ESTIMATED REASONABLE PROJECT COST: \$4,787,664
ELIGIBLE WORK START DATE: JULY 1, 2016
ELIGIBLE CONSTRUCTION START DATE: SEPTEMBER 22, 2020
CONSTRUCTION COMPLETION DATE: OCTOBER 1, 2023
FINAL REIMBURSEMENT REQUEST DATE: APRIL 1, 2024
RECORDS RETENTION END DATE: OCTOBER 1, 2059

1. The State Water Board and the Recipient mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement, including the following Exhibits, which are attached hereto or are incorporated by reference:
 - Exhibit A – Scope of Work and Schedule
 - Exhibit B – Specific Funding Provisions
 - Exhibit C – GENERAL TERMS AND CONDITIONS 2019-NOV
 - Exhibit D – Special Conditions
2. The following documents are also incorporated by reference:
 - the Drinking Water System Permit No. 03-12-06P-004;
 - the Davis-Bacon requirements found at:
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/davisbacon/2020_dwsrf_governmental_entities.pdf
3. Party Contacts during the term of this Agreement are:

State Water Board		City of Porterville	
Section:	Division of Financial Assistance		
Name:	Pete Stamas, Project Manager	Name:	Monte Reyes, Mayor
Address:	1001 I Street, 16th Floor	Address:	291 North Main Street
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	Porterville, CA 93257
Phone:	(916) 552-9983	Phone:	(559) 782-7499
Fax:		Fax:	
Email:	Pete.Stamas@waterboards.ca.gov	Email:	montereyes@portervilleca.gov

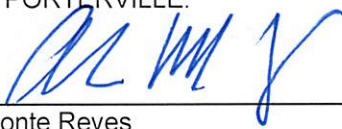
Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division's Deputy Director.

4. Conditions precedent to this Agreement are set forth as follows:
 - (a) The Recipient must deliver an opinion of general counsel satisfactory to the State Water Board's counsel dated on or after the date that the Recipient signs this Agreement.
 - (b) The Recipient must deliver to the Division a resolution authorizing this Agreement and identifying its authorized representative by title.
 - (c) The Recipient must deliver to the Division a resolution certifying that its decision-making body reviewed and considered the Mitigated Negative Declaration filed by the State Water Board for the Akin Water Company Water Supply Project together with the Mitigation Monitoring and Reporting Program and reached its own conclusions on whether and how to approve the Project, pursuant to Section 15050 (b) of the CEQA Guidelines.
5. The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date:
 - (a) The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.
 - (b) The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

- (c) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.
- (d) The Recipient is in compliance with all State Water Board funding agreements to which it is a party.

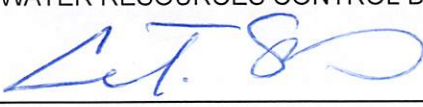
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CITY OF PORTERVILLE:

By: 
Name: Monte Reyes
Title: Mayor

Date: 6/1/2021

STATE WATER RESOURCES CONTROL BOARD:

By: 
Name: Leslie Laudon
Title: Deputy Director *for*
Division of Financial Assistance

Date: 7/15/21

EXHIBIT A – SCOPE OF WORK AND SCHEDULE

A.1. PROJECT PURPOSE AND DESCRIPTION.

The Project is for the benefit of the Recipient and has a Useful Life of at least 40 years. The funding under this Agreement shall be used to provide the residents of two small disadvantaged communities currently served by Akin Water Company (Akin WC) and Central Mutual Water Company (Central MWC) with a sustainable source of safe drinking water.

A.2. SCOPE OF WORK.

The Recipient agrees to do the following: consolidate with Akin WC and Central MWC. Recipient also agrees to construct a new production well, estimated to produce between 1,300 and 1,800 gallons per minute, to provide the needed source capacity for the consolidation of Akin WC, the consolidation of Central MWC, as well as satisfy the remainder of East Porterville residents' capacity needs.

The Recipient agrees to do the following for the Akin WC service area: construct approximately 1,500 feet of 8-inch waterline to provide water service to each customer currently served by Akin WC; install approximately three new fire hydrants and twenty-six new service laterals and meters; and destroy Akin WC's two existing wells.

The Recipient agrees to do the following for the Central MWC service area: construct approximately 1,400 feet of 6-inch waterline to provide water service to each customer currently served by Central MWC; install approximately four new fire hydrants and thirty-four new service laterals and meters; and destroy Central MWC's existing well.

Upon Completion of Construction, the Recipient must expeditiously initiate Project operations.

A.3 SIGNAGE

The Recipient must place a professionally prepared sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and must maintain the sign in good condition for the duration of Project implementation. The sign may include another agency's required information and must include, prominently displayed, the following disclosure statement and color logos (available from the Division):



"Funding for this project has been provided in full or in part under the Drinking Water State Revolving Fund, which may include capitalization funding from the United States Environmental Protection Agency through an agreement with the State Water Resources Control Board."

A.4 SCHEDULE.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Project Manager may adjust the dates in the "Estimated Due Date" column of this table, but Critical Due Date adjustments will require an amendment to this Agreement. The Recipient

must complete and submit all work in time to be approved by the Division prior to the Project Completion Date. As applicable for specific submittals, the Recipient must plan adequate time to solicit, receive, and address comments prior to submitting the final submittal. The Recipient must submit the final Reimbursement Request prior to the Final Reimbursement Request Date set forth on the Cover Page.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A – SCOPE OF WORK			
A.	ADDITIONAL SUBMITTAL(S) TO DIVISION		
1.	Final Plans and Specifications		September 1, 2021
2.	Final Budget Approval Package		February 1, 2022
3.	Completion of Construction	October 1, 2023	
B.	REPORTS		
1.	Progress Reports		Quarterly
2.	Final Inspection and Certification		October 1, 2023
3.	Project Completion Report		December 1, 2023
4.	As Needed Reports		TBD
EXHIBIT B – REIMBURSEMENTS, BUDGET DETAIL, AND REPORTING PROVISIONS			
A.	REIMBURSEMENTS		
1.	Reimbursement Requests		Quarterly
2.	Final Reimbursement Request	April 1, 2024	

The Recipient must award the prime construction contract and begin construction timely. The Recipient must deliver any request for extension of the Completion of Construction Date no less than 90 days prior to the Completion of Construction Date.

A.5 PROGRESS REPORTS.

The Recipient must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement. The Recipient must provide a progress report with each Reimbursement Request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B. A progress report must contain the following information:

- 1) A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
- 2) A description of compliance with environmental requirements;
- 3) A listing of change orders including amount, description of work, and change in contract amount and schedule; and
- 4) Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.6 SPECIAL REPORTS.

(a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

(b) If the Recipient fails to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold reimbursements under this Agreement or other agreements, and begin administrative proceedings.

(c) The Recipient must report Disadvantaged Business Enterprise (DBE) utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipient must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipient must comply with 40 CFR § 33.301 and require its contractors and subcontractors on the Project to comply.

A.7 FINAL PROJECT INSPECTION AND CERTIFICATION.

Upon completion of the Project, the Recipient must provide for a final inspection and must certify that the Project has been completed in accordance with this Agreement, any final plans and specifications submitted to the State Water Board, and any amendments or modifications thereto. If the Project involves the planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, or other professionals, the final inspection and certification must be conducted by a California Registered Civil Engineer or other appropriate California registered professional. The results of the final inspection and certification must be submitted to the Project Manager.

EXHIBIT B – FUNDING AMOUNTS

B.1 ESTIMATED REASONABLE COST AND PROJECT FUNDS.

The estimated reasonable cost of the total Project is set forth on the Cover Page of this Agreement and is greater than or equal to the funding anticipated to be provided by the State Water Board under this Agreement. Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.2 RECIPIENT CONTRIBUTIONS.

(a) The loan component of this Agreement is forgiven. The estimated amount of principal that will be due to the State Water Board from the Recipient under this Agreement is Zero dollars and no cents (\$0.00).

(b) The Recipient must pay any and all costs connected with the Project including, without limitation, any and all Project Costs. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

(c) If the Recipient recovers funds from any responsible parties, the Recipient shall immediately notify the Division. The amount of this Agreement may be reduced to reflect the recovered funds.

B.3 VERIFIABLE DATA.

Upon request by the Division, the Recipient must submit verifiable data to support deliverables specified in the Scope of Work. The Recipient's failure to comply with this requirement may be construed as a material breach of this Agreement.

B.4 BUDGET COSTS

Budget costs are contained in the Summary Project Cost Table below:

LINE ITEM	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
Construction	\$3,194,720	\$3,194,720
Pre-Purchased Material/Equipment	\$0	\$0
Purchase of Land	\$0	\$0
Contingency	\$638,944	\$638,944
Allowances (Soft Costs)	\$954,000	\$954,000
TOTAL	\$4,787,664	\$4,787,664

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

The Recipient is prohibited from requesting disbursement amounts that represent Recipient's mark-ups to costs invoiced or otherwise requested by consultants or contractors.

Reasonable indirect costs may be allowable upon approval by the Division.

B.5 LINE ITEM ADJUSTMENTS.

Upon written request by the Recipient, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipient, the Division may also adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipient's submittal of its final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary

Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

Under no circumstances may the sum of line items in the budget approved through the Final Budget Approval process exceed the Project Funding Amount. Any increase in the Project Funding Amount will require an Agreement amendment.

B.6 REIMBURSEMENT PROCEDURE.

(a) Except as may be otherwise provided in this Agreement, reimbursements will be made as follows:

1. Upon execution and delivery of this Agreement by both parties, the Recipient may request immediate reimbursement of any eligible incurred costs as specified below through submission to the State Water Board of the Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed.
2. The Recipient must submit a Reimbursement Request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than ninety (90) days after this Agreement is executed by the State Water Board. Late Reimbursement Requests may not be honored.
3. Additional Project Funds will be promptly disbursed to the Recipient upon receipt of Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of progress reports due under Exhibit A.
4. The Recipient must not request reimbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of reimbursement. Supporting documentation (e.g., receipts) must be submitted with each Reimbursement Request. The amount requested for Recipient's administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Reimbursement Request. Upon request by the Division, supporting documents for professional and administrative services must include the employees' names, classifications, labor rates, hours worked, and descriptions of the tasks performed. Reimbursement Requests submitted without supporting documents may be wholly or partially withheld at the discretion of the Division.
5. The Recipient must spend Project Funds within 30 days of receipt. If the Recipient earns interest earned on Project Funds, it must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future reimbursements.
6. The Recipient shall not request a reimbursement unless that Project Cost is allowable, reasonable, and allocable.
7. Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.

(b) Notwithstanding any other provision of this Agreement, the Recipient agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Project Funding Amount until Project Completion. Any retained amounts due to the Recipient will be promptly disbursed to the Recipient, without interest, upon Project Completion.

(c) Except as follows, construction costs and disbursements are not available until after the Division has approved the final budget form submitted by the Recipient. The Deputy Director of the Division may authorize the disbursement of up to ten percent (10%) of Project Funds for the reimbursement of eligible construction costs and pre-purchased materials prior to Division approval of the final budget form submitted by the Recipient. All other construction costs are not eligible for reimbursement until after this the Division has approved the final budget form submitted by the Recipient. Construction costs incurred prior to the Eligible Construction Start Date are not eligible for reimbursement.

B.7 REVERTING FUNDS AND DISENCUMBRANCE.

In the event the Recipient does not submit Reimbursement Requests for all funds encumbered under this Agreement by the Final Reimbursement Request Date, any remaining funds revert to the State. The State Water Board may notify the Recipient that the project file is closed, and any remaining balance will be disencumbered and unavailable for further use under the Agreement.

EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV

GENERAL TERMS AND CONDITIONS 2019-NOV is incorporated by reference and is posted at
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/general_terms.html

EXHIBIT D – SPECIAL CONDITIONS

1. Notwithstanding Exhibit C, the following terms have no meaning for the purposes of this Agreement:
 - Work Completion
 - Work Completion Date
2. Each capitalized term used in this Agreement has the following meaning:
 - "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.
 - "Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.
 - "Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete, and is established on the Cover Page of this Agreement.
 - "District Office" means District Office of the Division of Drinking Water of the State Water Board.
 - "Division of Drinking Water" means the Division of Drinking Water of the State Water Board.
 - "Eligible Construction Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.
 - "Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.
 - "Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.
 - "Event of Default" means, in addition to the meanings set forth in Exhibit C, the occurrence of any of the following events:
 - a) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
 - b) Failure to operate the System or the Project without the Division's approval;
 - "Final Budget Approval" means the Division-approved final budget for the Project, as set forth in Exhibit B.
 - "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the Project (i.e., costs that are not directly related to the Project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Recipient; non-project-specific accounting and personnel services performed within the Recipient organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; generic overhead or markup; and taxes.
 - "Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
 - "Net Revenues" means, for any Fiscal Year, all Revenues received by the Recipient less the Operations and Maintenance Costs for such Fiscal Year.
 - "Operations and Maintenance Costs" means the reasonable and necessary costs paid or incurred by the Recipient for maintaining and operating the System, determined in accordance with GAAP, including all

reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all reasonable and necessary administrative costs of the Recipient that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the System and insurance premiums; but excluding, in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.

- "Reimbursement Request" means the Recipient's request for Project Funds from the State Water Board as set forth in Exhibit B.
- "Revenues" means, for each Fiscal Year, all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient's behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.
- "System" means all drinking water collection, transport, treatment, storage, and delivery facilities, including land and easements thereof, owned by the City of Porterville, or its successor agency, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.
- "Useful Life" means the economically useful life of the Project beginning at Project Completion and is set forth in Exhibit A.

3. Acknowledgements.

The Recipient must include the following acknowledgement in any document, written report, or brochure to be shared with the general public prepared in whole or in part pursuant to this Agreement:

"Funding for this project has been provided in full or in part under the Drinking Water State Revolving Fund, which may include capitalization funding from the United States Environmental Protection Agency through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

4. Rates and Charges. The Recipient must, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be sufficient to generate Revenues in the amounts necessary to cover Operations and Maintenance Costs, and must ensure that Net Revenues are in an amount necessary to meet its obligations under this Agreement. The Recipient may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section.
5. [RESERVED]
6. [RESERVED].

7. Environmental/Technical Special Conditions

Technical:

1. The Recipient shall submit its professional engineering services contract to the Division prior to disbursement of funds for costs incurred under such contract.
2. The Recipient shall not solicit bids, award a contract, or commence construction activities until final plans and specifications are approved by the Division of Drinking Water Tulare District Office Engineer and the Project Manager.
3. The Recipient must submit final consolidation agreements with Akin WC and Central MWC, in a form satisfactory to the Division, and receive written approval from the Project Manager to proceed before Project Funds may be disbursed for any Project Costs under the Agreement.
4. Upon completion of the Project the Recipient shall submit a water supply permit amendment request for review to the Division of Drinking Water Tulare District Office.

Environmental:

1. The documents identified below are incorporated by reference and the Recipient shall comply with the conditions and recommendations therein:
 - a. The Mitigation Monitoring and Reporting Program adopted by the State Water Board on June 16, 2016 for the Project. The Recipient shall implement all mitigation measures therein.
 - b. The letter dated February 12, 2020, from Patricia Cole of the United States Fish and Wildlife Service, San Joaquin Valley Division to Douglas E. Eberhardt of the United States Environmental Protection Agency, including, but not limited to, the following:
 - i. Implement Avoidance and Minimization Measures and Best Management Practices prior to and during construction activities to minimize and avoid effects to the San Joaquin kit fox.
 - c. The Mitigation Monitoring and Reporting Program adopted by the City of Porterville on April 21, 2020 for the Central Mutual Water Company Consolidation Project. The Recipient shall implement all mitigation measures therein.
2. In the Recipient's Quarterly Reports submitted pursuant to this Agreement, the Recipient shall include a discussion of the status of its compliance with environmental measures identified in this Exhibit D, with separate sections clearly labeled and titled, discussing the status of Recipient's compliance.
3. In the Recipient's Project Completion Report submitted pursuant to this Agreement, the Recipient shall include a discussion of its compliance with environmental measures identified in this Exhibit D, with separate sections clearly labeled and titled, discussing the status of Recipient's compliance.
8. [RESERVED].
9. Appointment of Receiver/Custodian. Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the State Water Board under this Agreement, the State Water Board may make application for the appointment of a receiver or custodian of the Revenues, pending such proceeding, with such power as the court making such appointment may confer.
10. [RESERVED].
11. Damages for Breach of Federal Conditions. In the event that any breach of any of the provisions of this Agreement by the Recipient results in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

12. [RESERVED].

13. Operation and Maintenance. The Recipient shall sufficiently and properly staff, operate, and maintain the facility and structures constructed or improved as part of the project throughout the term of this Agreement, consistent with the purposes of this Agreement. The Recipient assumes all operations and maintenance costs of the facilities and structures; the State Water Board shall not be liable for any cost of such maintenance, management or operation.

14. Insurance. The Recipient will procure and maintain or cause to be maintained insurance on the System and Project with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System or Project) as are usually covered in connection with systems similar to the System or Project. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program. In the event of any damage to or destruction of the System or Project caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System or Project. The Recipient must begin such reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and the System and Project must be free and clear of all claims and liens. Recipient agrees that for any policy of insurance concerning or covering the construction of the Project, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

15. Notice Events. Upon the occurrence of any of the following events, the Recipient must notify the Division's Deputy Director and Party Contacts by phone and email within the time specified below:

- a. The Recipient must notify the Division within 24 hours by phone at (916) 327-9978 and by email to DrinkingWaterSRF@waterboards.ca.gov of any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.
- b. The Recipient must notify the Division promptly of the occurrence of any of the following events:
 - i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - ii. Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
 - iii. Loss, theft, damage, or impairment to Project;
 - iv. Events of Default, except as otherwise set forth in this section;

- v. A proceeding or action by a public entity to acquire the Project by power of eminent domain.
- vi. Any litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity or the Recipient's continued existence;
- vii. Consideration of dissolution, or disincorporation;
- viii. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board.
- ix. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this funding, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
- x. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
- xi. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
- xii. Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
- xiii. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
- xiv. Any event requiring notice to the Division pursuant to any other provision of this Agreement.
- xv. Completion of work on the Project.
- xvi. The Recipient must promptly notify the Division and Party Contacts of cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
- xvii. The Recipient must promptly notify the Division and Party Contacts of the discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during implementation of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act;
- xviii. The Recipient must promptly notify the Division and Party Contacts of Completion of Construction, and Project Completion;
- xix. The Recipient must promptly notify the Division and Party Contacts of the award of the prime construction contract for the Project; and the Recipient must promptly notify the Division and Party Contacts of Initiation of construction of the Project.

xx. The occurrence of a material breach or event of default under any Recipient obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption.

xxi. [RESERVED].

16. Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project. The Recipient agrees that, except as provided in this Agreement, it will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Project during the Useful Life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.
17. State Cross-Cutters. Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:
- a) The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
 - b) Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
 - c) Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
 - d) Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
 - e) Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
 - f) Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
 - g) Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
 - h) Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
 - i) Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
 - j) Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
 - k) The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.
18. Financial Management Systems. The Recipient must comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been

used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act of 1984 and 2 CFR Part 200, subpart F, and updates or revisions, thereto.

19. Access and Inspection. In addition to the obligations set forth in section 2 of the General Terms and Conditions incorporated in Exhibit C of this Agreement, the Recipient must ensure that the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during the term of the Agreement.
20. Fraud, Waste, and Abuse. The Recipient shall prevent fraud, waste, and the abuse of Project Funds, and shall cooperate in any investigation of such activities that are suspected in connection with this Agreement. The Recipient understands that discovery of any evidence of misrepresentation or fraud related to reimbursement requests, invoices, proof of payment of invoices, or other supporting information, including but not limited to double or multiple billing for time, services, or any other eligible cost, may result in referral to the Attorney General's Office or the applicable District Attorney's Office for appropriate action. The Recipient further understands that any suspected occurrences of false claims, misrepresentation, fraud, forgery, theft or any other misuse of Project Funds may result in withholding of reimbursements and/or the termination of this Agreement requiring the immediate repayment of all funds disbursed hereunder.
21. Disputes. The Recipient must continue with the responsibilities under this Agreement during any dispute. The Recipient may, in writing, appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute. This provision does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law. This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.
22. Additional Representations and Warranties. The Recipient makes the following representations and warranties:
 - a. [RESERVED].
 - b. The Recipient has not made any untrue statement of a material fact in its application for this financial assistance, or omitted to state in its application, a material fact that makes the statements in its application not misleading.
 - c. The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.
 - d. The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the Cover Page.

- e. Except as set forth in this paragraph, there are, as of the date of execution of this Agreement by the Recipient, no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of the Recipient, the Revenues, and/or the Project.
 - f. There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain any of the real or personal property related to or necessary for the Project.
 - g. The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.
 - h. Any financial statements or other financial documentation of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements or other financial documentation: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements or other financial documentation, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements or other financial documentation been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.
 - i. The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.
 - j. The Recipient has no conflicting or material obligations, except as set forth in this paragraph.
 - k. The Recipient legally possesses all real property rights necessary for the purposes of this Agreement, not subject to third party revocation, which rights extend at least to the Records Retention End Date of this Agreement, except as set forth in this paragraph.
 - l. The Recipient and its principals, to the best of the Recipient's knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in any work overseen, directed, funded, or administered by the State Water Board program for which this grant funding is authorized; nor have they engaged or permitted the performance of services covered by this Agreement from parties that are debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this grant funding is authorized.
 - m. The Recipient possesses all water rights necessary for this Project.
23. Federal SRF Requirements. The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:
- a. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase "iron and steel products" produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the

Recipient hereby certifies that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

- b. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language incorporated by reference in Section 2 of this Agreement in all construction contracts and subcontracts.
- c. The Recipient shall notify the State Water Board and the USEPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
- d. The Recipient shall comply with applicable EPA general terms and conditions found at <http://www.epa.gov/ogd>.
- e. No Recipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board.
- f. [RESERVED]
- g. The Recipient represents and warrants that it and its principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If the Recipient is excluded after execution of this Agreement, the Recipient shall notify the Division within ten (10) days and shall inform the Division of the Recipient's exclusion in any request for amendment of this Agreement. The Recipient shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipient shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.
- h. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.
- i. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- j. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://Edison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.

- k. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the Disclosure statement set forth in Exhibit A.
- l. The Recipient acknowledges that it is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- m. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing.
- n. The Recipient certifies to the best of its knowledge and belief that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.
 - iii. The Recipient shall require this certification from all parties to any contract or agreement that the Recipient enters into and under which the Recipient incurs costs for which it seeks disbursements under this Agreement.
- o. The Recipient must comply with the following federal non-discrimination requirements:
 - i. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
 - ii. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
 - iii. The Age Discrimination Act of 1975, which prohibits age discrimination.
 - iv. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
 - v. 40 CFR Part 7, as it relates to the foregoing.
 - vi. Executive Order 13798, including, to the greatest extent practicable and to the extent permitted by law, the requirement to respect and protect the freedom of persons and organizations to engage in political and religious speech
 - vii. All applicable federal civil rights regulations, including statutory and national policy requirements (2 CFR section 200.300).

- p. Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

"During the performance of this contract, the contractor agrees as follows:"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- q. The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises as set forth in this Agreement.
- r. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/>.
- s. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- t. The Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure.
- u. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by USEPA or that is submitted directly to USEPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.
- v. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.
- w. The Recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.
- x. The Recipient agrees to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under this Project, including fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.
- y. The Recipient agrees to comply with, and require all contractors and subcontractors to comply with, EPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.
- z. The Recipient shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the EPA's Scientific Integrity Policy. The Recipient must refrain from acts of research misconduct, including publication or reporting, as described in EPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and

disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

- aa. The Recipient agrees to comply with the Animal Welfare Act of 1966 (7 USC 2131-2156). Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples>.
- bb. The Recipient certifies that no Project Funds will be used on:
 - i. Video surveillance or telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - ii. Telecommunications or video surveillance services produced by such entities;
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; or
 - iv. Other telecommunications or video surveillance services or equipment in violation of [2 CFR 200.216](#).



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Public Hearing to Consider the Transition to Phase III of the City's Water Conservation Plan

SOURCE: Public Works

COMMENT: The City's Water Conservation Plan is structured in an effort to provide State-mandated conservation results, reduce the overall residential consumption, and continue to provide uninterrupted services to the community without compromising the operation of the City's water distribution system. The City has been operating through the winter months in Phase IV of the City's Water Conservation Plan. As part of the Phase IV implementation, the City reduced watering days through the winter months to a one day per week watering schedule, based on address. If an address ends with an "odd" number, the watering day is Saturday; if an address ends with an "even" number, the watering day is Sunday. Watering is prohibited between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m., with no watering allowed Monday, Tuesday, Wednesday, Thursday, or Friday.

Conservation reduction guidelines presented in past Executive Orders and subsequent regulations adopted by the State Water Resources Control Board encourage conservation as a way of life. Taking into consideration the State Water Boards Self-Certification criteria for the City, the City Council approved maintaining a self-imposed conservation standard of twenty-six percent (26%) less than the production of 2013. The continuation of the current conservation goals keeps a standardized message that the City has worked to develop in public outreach, provides resiliency and capacity to ensure three years of supply under drought conditions, and meets the minimum twenty percent (20%) conservation standard defined in the City's Urban Water Management Plan, and assists the City toward meeting the requirements of the Sustainable Groundwater Management Act (SGMA).

In response, the City has developed a Conservation Plan that has been effective while still allowing some flexibility throughout the community. The City's Conservation Plan is an Odd/Even watering schedule composed of Five Phases; Phase I is a Voluntary 3-Day Watering a week Schedule; Phase II, is a Mandatory 3-Day Watering a week Schedule; Phase III, is a Mandatory 2-Day Watering a week Schedule; Phase IV, is a Mandatory 1-Day Watering week Schedule; and Phase V, is a No Outdoor Watering schedule.

Through the implementation of mandatory conservation, the City has been able to maintain a cumulative GPCD conservation total reduction of twenty-five percent (25%) from June 2015 through April 2023. In order to maintain

conservation reductions while providing flexibility to local residents, it is the staff's recommendation that the seasonal changes in the temperature be evaluated and the need to transition from Phase IV to Phase III of the City's Water Conservation Plan (a Mandatory odd/even 2-day watering week schedule). Staff recommends Council conduct a Public Hearing to consider moving to Phase III of the City's Water Conservation Plan, which adds an additional day to the watering schedule for outdoor landscape. Phase III is a Mandatory odd/even 2-day watering week schedule. Odd addresses would be allowed to water on Tuesday and Saturday and even addresses on Wednesday and Sunday. The City's Water Conservation Plan applies to all water users within the City's service area. Given the ongoing historic drought conditions, it is staff's recommendation to commence with Phase III effective June 1, 2023, and continue this watering schedule through the summer and fall months until September 30, 2023. On October 1, 2023, the City would then transition back to Phase IV of the City's Water Conservation Plan (a Mandatory 1-day watering week schedule).

RECOMMENDATION: That the City Council:

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

ATTACHMENTS:

1. Drought Response Phase III Flyer
2. Drought Response Phase IV Flyer
3. Monthly Production Status April 2023
4. Monthly Production Status GPCD April 2023
5. Standing Water Level Averages Chart
6. Tulare Basin Precipitation Index

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



DROUGHT RESPONSE Phase III

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

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

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

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

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

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

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

DROUGHT RESPONSE PHASE III

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

Mandatory Odd/Even Watering Schedule

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

Odd Address
 Even Address

ODD NUMBER ADDRESSES

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

OR

EVEN NUMBER ADDRESSES

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

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

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**


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

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

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

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

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



DROUGHT RESPONSE Phase IV

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

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

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

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

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

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

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

DROUGHT RESPONSE PHASE IV

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

Mandatory Odd/Even Watering Schedule

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

- Odd Address
- Even Address
- Outdoor Watering is Prohibited

ODD NUMBER ADDRESSES

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

OR

EVEN NUMBER ADDRESSES

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

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

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**

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

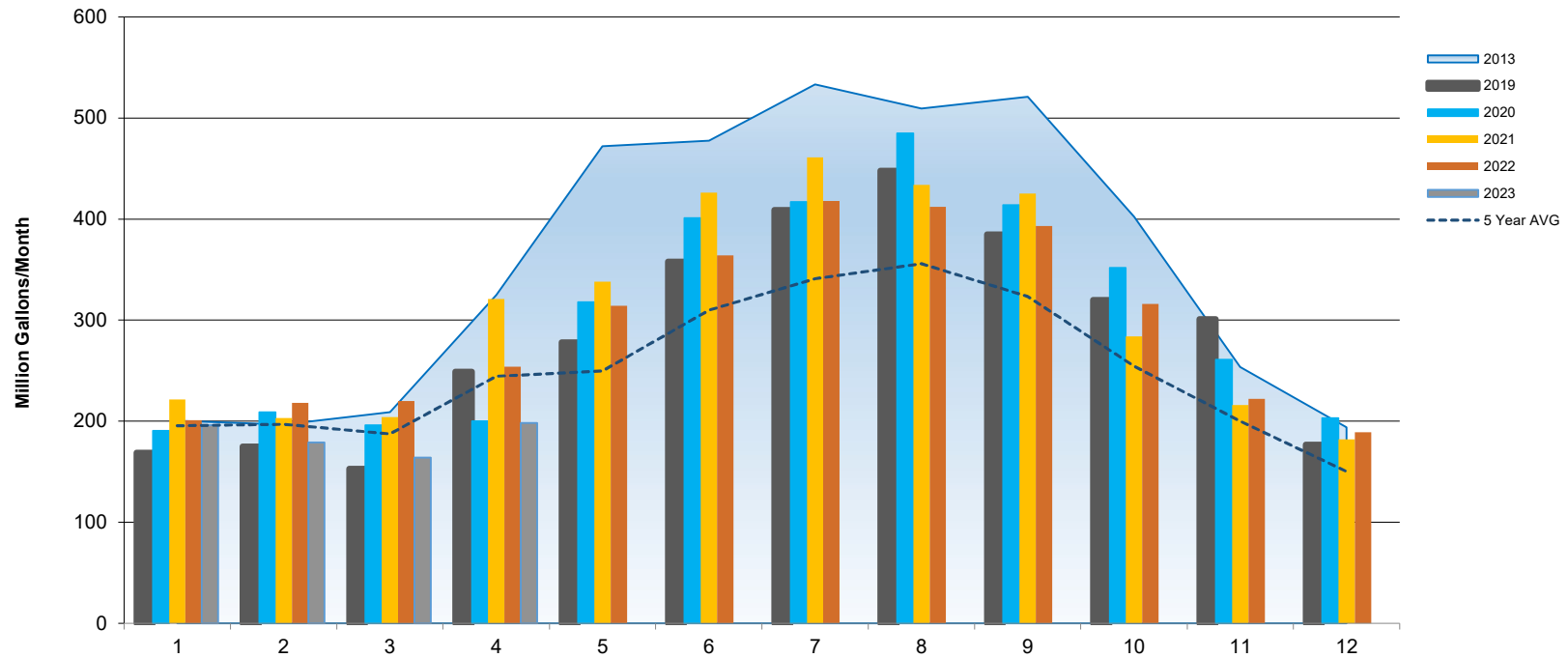
**Vehicles shall only be
washed on designated
watering days and with
hoses equipped with a
shut-off nozzle**

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

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

**NO WATERING
MONDAY THROUGH
FRIDAY.**

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

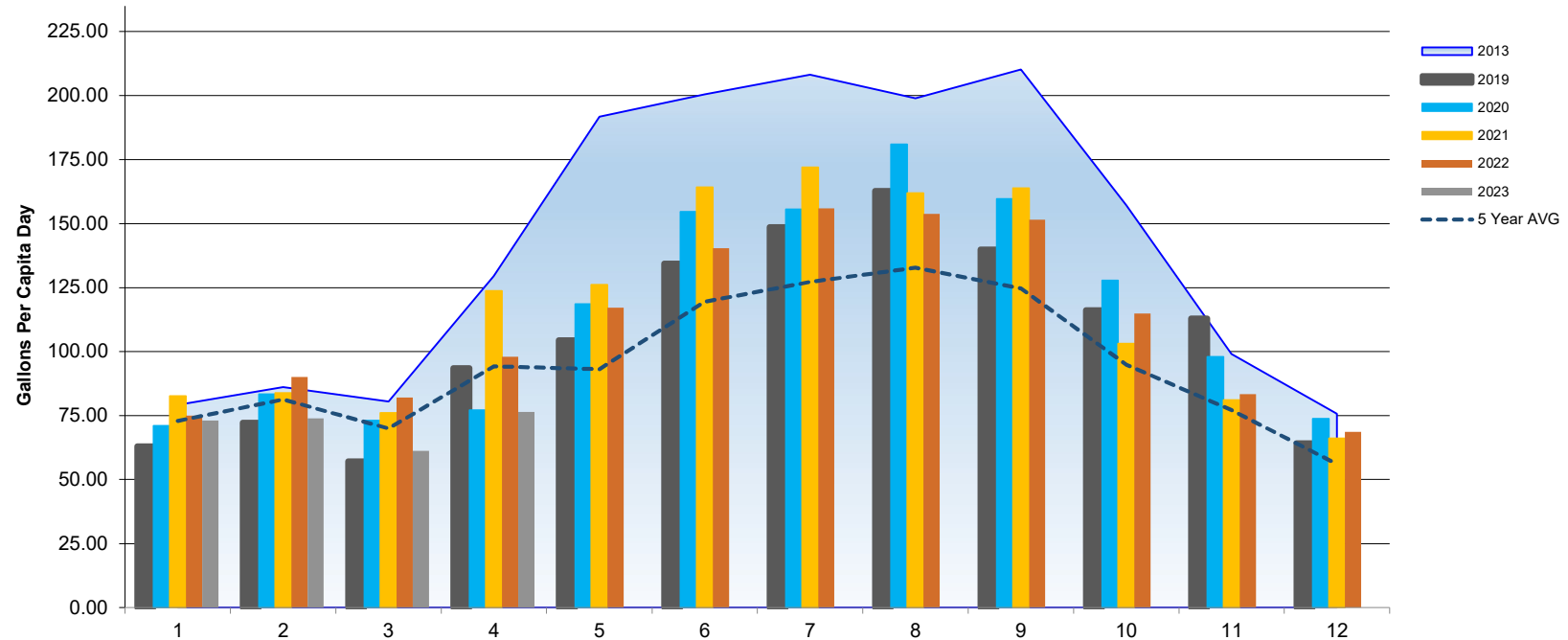


Production Cumulative Total 20%

2019	16%	-11%	-27%	-23%	-41%	-25%	-23%	-12%	-26%	-20%	19%	-9%
2020	-5%	6%	-6%	-38%	-33%	-16%	-22%	-5%	-21%	-13%	3%	5%
2021	11%	3%	-2%	-1%	-28%	-11%	-14%	-15%	-18%	-29%	-15%	-6%
2022	0%	11%	5%	-22%	-33%	-24%	-22%	-19%	-25%	-21%	-13%	-3%
2023	-2%	-18%	-31%	-36%								

Percent Comparison to 2013 Production

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



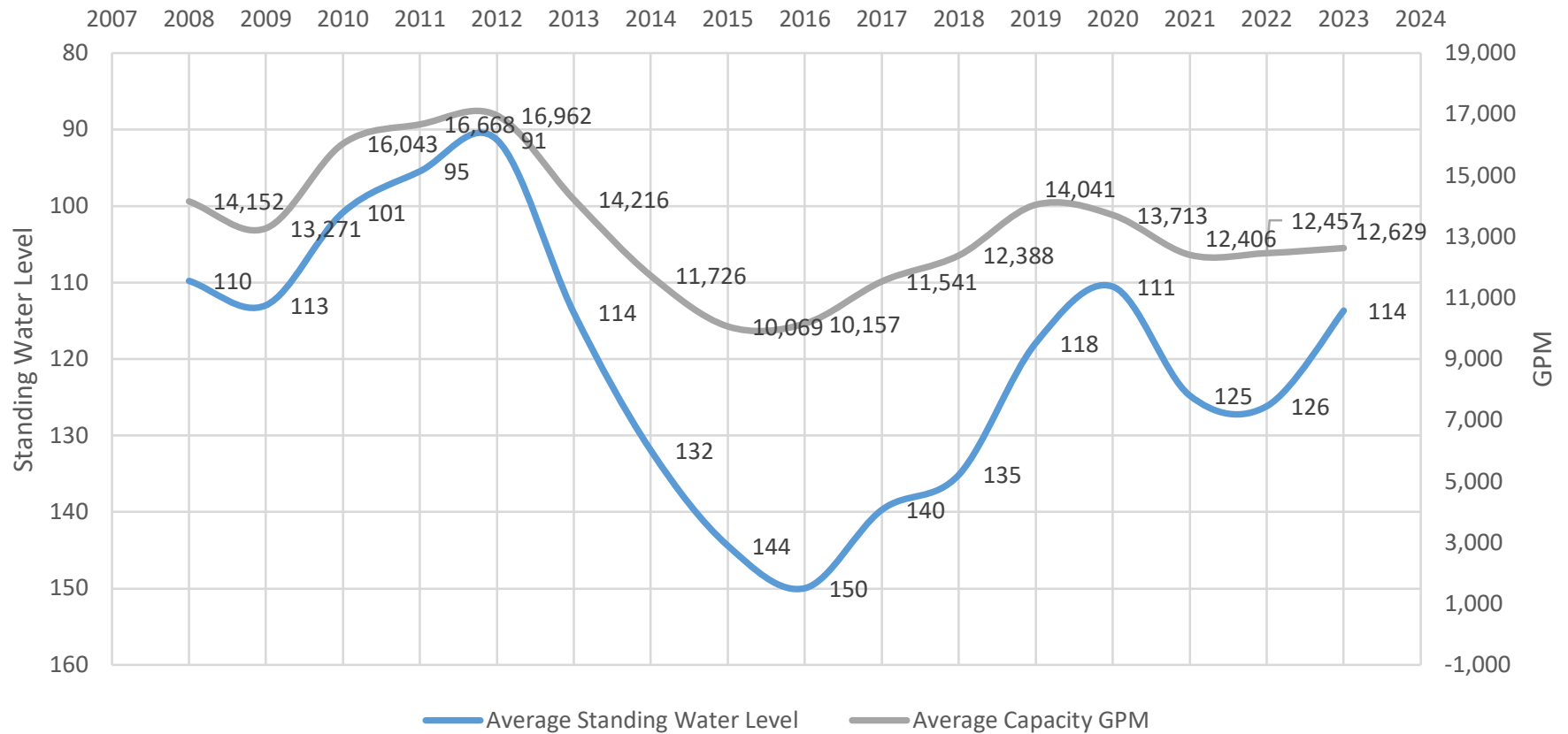
GPCD

Cumulative Total 25%

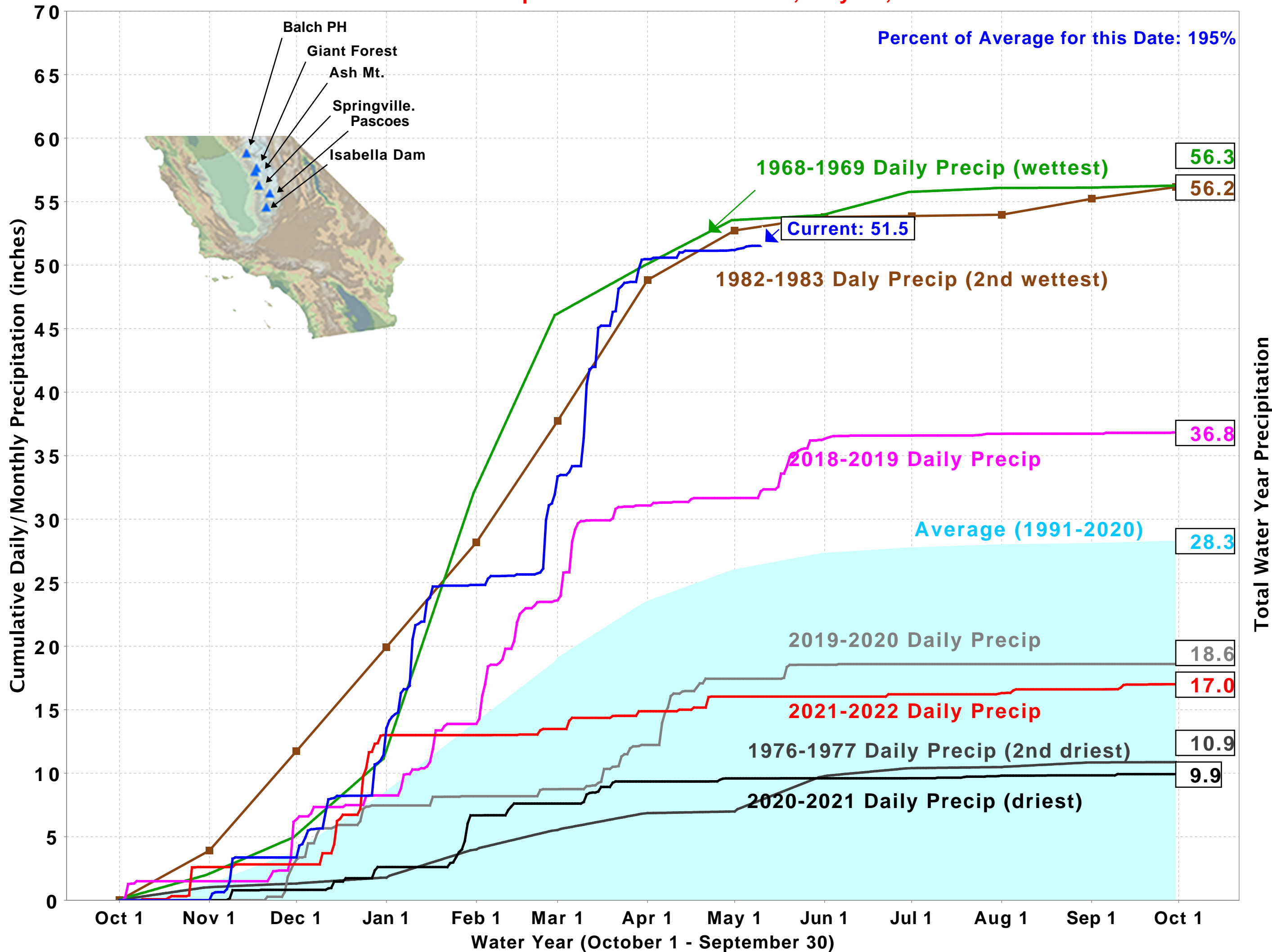
	2019	-20%	-16%	-29%	-28%	-46%	-33%	-29%	-18%	-33%	-26%	14%	-15%
	2020	-10%	-3%	-9%	-40%	-38%	-23%	-25%	-9%	-24%	-19%	-1%	-3%
	2021	4%	-3%	-5%	-4.4%	-34%	-18%	-17%	-19%	-22%	-34%	-18%	-13%
	2022	-5%	4%	2%	-24.3%	-39%	-30%	-25%	-100%	-28%	-27%	-16%	-9%
	2023	-19%	-29%	-21%	-29%								

Percent Comparison to 2013 Production

Average Standing Water Level & Production Capacity



Tulare Basin Precipitation: 6-Station Index, May 10, 2023





CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Consider Resolutions of Opposition to Assembly Bill 1090 (Jones-Sawyer) and State Senate Bill 94 (Cortese)

SOURCE: City Manager's Office

COMMENT: During Other Matters at its meeting on April 18, 2023, the City Council approved Council Member Meister's request to consider draft Resolutions of Opposition to Assembly Bill 1090 (Jones-Sawyer) and Senate Bill 94 (Cortese) as a Scheduled Matter at its meeting on May 2, 2023. After deliberation and discussion by the Council at its meeting on May 2nd, the item was continued to the Council's meeting of May 16, 2023.

Assembly Bill 1090 (Jones-Sawyer)

Assembly Bill 1090 (AB 1090) is an act that would authorize a county board of supervisors to remove a sheriff from office for cause, as defined, by a 4/5 vote, after the sheriff is served with a written statement of the alleged grounds for removal and the sheriff is provided a reasonable opportunity to be heard regarding an explanation or defense at a removal proceeding. The bill would require provisions not be applied in a manner that interferes with the constitutional functions of a sheriff.

Existing State law provides for the removal of public officers for willful or corrupt misconduct in office. Existing State law further provides that an accusation in writing against any officer of a district, county, or city for willful or corrupt misconduct in office may be presented by the grand jury of the county for, or in, which the officer accused is elected or appointed. Existing State law requires that the court pronounce judgment that the officer be removed from office upon a conviction and at the time appointed by the court.

Senate Bill 94 (Cortese)

Senate Bill 94 (SB 94) is an act that would authorize an individual sentenced to death or life imprisonment without the possibility of parole for a conviction in which one or more special circumstances were found to be true to petition for recall and resentencing if the offense occurred before June 5, 1990, and the individual has served at least twenty (20) years in custody. The bill would authorize the court to modify the petitioner's sentence to impose a lesser sentence and apply any changes in law that reduces sentences or provide for judicial discretion, or to vacate the petitioner's conviction and impose judgment on a lesser included offense, as specified. The bill would require a court to consider and afford great weight to evidence offered by the petitioner to prove that specified mitigating circumstances are present. The bill would provide that

proof of the presence of one or more specified mitigating circumstances weights greatly in favor of dismissing a special circumstance, unless the court finds that petitioner is currently an unreasonable risk of danger to public safety, as defined.

Existing State law provides for various specified special circumstances, including murder committed for financial gain or committed during the commission or attempted commission of certain felonies, which, if found true as specified, require a defendant found guilty of murder in the first degree to be sentenced to death or imprisonment for life without the possibility of parole.

Existing State law, added by Proposition 115 of the June 5, 1990, statewide primary election, prohibits a judge from striking or dismissing any special circumstance that is admitted by plea or found true by a jury or court, as specified. Existing State law generally authorizes a court to dismiss an action or to strike or dismiss an enhancement in the furtherance of justice, except is dismissal of that enhancement is prohibited by any initiative statute.

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

ATTACHMENTS:

1. Draft Resolution of Opposition - Assembly Bill 1090
2. Assembly Bill No. 1090 (Jones-Sawyer)
3. Assembly Bill No. 1090 Analysis
4. Draft Resolution of Opposition - Senate Bill 94
5. Senate Bill No. 94 (Cortese)
6. Senate Bill No. 94 Analysis

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE,
IN OPPOSITION TO ASSEMBLY BILL 1090

WHEREAS, existing State law requires the Legislature to provide for an elected county sheriff and provides for the duties of the sheriff; and

WHEREAS, existing State law requires the county board of supervisors to supervise all county officers, except as provided; and

WHEREAS, existing State law provides for the removal of public officers for willful or corrupt misconduct in office. Existing law provides that an accusation in writing against any officer of a district, county, or city for willful or corrupt misconduct in office may be presented by the grand jury of the county for, or in, which the officer accused is elected or appointed. Existing law requires that the court pronounce judgement that the officer be removed from office upon a conviction and at the time appointed by the court.

WHEREAS, Assembly Bill 1090 (AB 1090) would authorize the board of supervisors to remove a sheriff from office for cause, as defined as: (1) violation of a law related to the performance of a sheriff's duties; (2) flagrant or repeated neglect of a sheriff's duties; (3) misappropriation of public funds or properties committed by a sheriff or their direct reports in the course and scope of their duties; (4) willful falsification of a relevant official statement or document committed by a sheriff in the course and scope of their duties; and (5) obstruction of an investigation into the conduct of a sheriff or a sheriff's department by a governmental agency, office, or commission with jurisdiction to conduct an investigation. And

WHEREAS, AB 1090 would authorize the board of supervisors to remove a sheriff from office for cause by a 4/5 vote, after the sheriff is served with a written statement of the alleged grounds for removal and the sheriff is provided a reasonable opportunity to be heard regarding an explanation or defense at a removal proceeding. AB 1090 would authorize the board of supervisors to establish procedures for a removal proceeding. AB 1090 require that these provisions not be applied in a manner that interferes with the constitutional functions of a sheriff.

NOW, THEREFORE, it is hereby DECLARED and ORDERED, that the City Council of the City of Porterville does hereby oppose Assembly Bill 1090.

This Resolution shall take effect from and after the date of its passage and adoption by this Council.

PASSED, APPROVED, AND ADOPTED this 2nd day of May, 2023.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

AMENDED IN ASSEMBLY APRIL 13, 2023

AMENDED IN ASSEMBLY APRIL 4, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1090

Introduced by Assembly Member Jones-Sawyer

February 15, 2023

An act to add Section 25303.8 to the Government Code, relating to county officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1090, as amended, Jones-Sawyer. County officers: sheriffs.

Existing law requires the Legislature to provide for an elected county sheriff and provides for the duties of the sheriff. Existing law requires the board of supervisors to supervise all county officers, except as provided.

Existing law provides for the removal of public officers for willful or corrupt misconduct in office. Existing law provides that an accusation in writing against any officer of a district, county, or city for willful or corrupt misconduct in office may be presented by the grand jury of the county for, or in, which the officer accused is elected or appointed. Existing law requires that the court pronounce judgment that the officer be removed from office upon a conviction and at the time appointed by the court.

This bill would authorize the board of supervisors to remove a sheriff from office for cause, *as defined*, by a $\frac{4}{5}$ vote, after the sheriff is served with a written statement of the alleged grounds for removal and the sheriff is provided a reasonable opportunity to be heard regarding an explanation or defense at a removal proceeding. The bill would authorize

the board of supervisors to establish procedures for a removal proceeding. The bill would require that these provisions not be applied in a manner that interferes with the constitutional functions of a sheriff.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25303.8 is added to the Government
2 Code, to read:
3 25303.8. (a) *For purposes of this section, “for cause” means*
4 *all of the following:*
5 (1) *Violation of a law related to the performance of a sheriff’s*
6 *duties.*
7 (2) *Flagrant or repeated neglect of a sheriff’s duties.*
8 (3) *Misappropriation of public funds or properties committed*
9 *by a sheriff or their direct reports in the course and scope of their*
10 *duties.*
11 (4) *Willful falsification of a relevant official statement or*
12 *document committed by a sheriff in the course and scope of their*
13 *duties.*
14 (5) *Obstruction of an investigation into the conduct of a sheriff*
15 *or a sheriff’s department by a governmental agency, office, or*
16 *commission with jurisdiction to conduct an investigation.*
17 ~~(a)–~~
18 (b) The board of supervisors may remove a sheriff from office
19 for cause, by a four-fifths vote, after both of the following have
20 occurred:
21 (1) The sheriff is served with a written statement of the alleged
22 grounds for removal.
23 (2) The sheriff is provided a reasonable opportunity to be heard
24 regarding an explanation or defense at a removal proceeding.
25 ~~(b)~~
26 (c) The board of supervisors may establish procedures for a
27 removal proceeding held pursuant to this section.
28 ~~(e)~~
29 (d) This section shall not be applied in a manner that interferes
30 with the constitutional functions of a sheriff.

O

Date of Hearing: April 11, 2023

Counsel: Liah Burnley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 1090 (Jones-Sawyer) – As Amended April 4, 2023

As Proposed to Be Amended In Committee

SUMMARY: Authorizes the board of supervisors of a county to remove a sheriff from office for cause. Specifically, **this bill**:

- 1) Provides that the board of supervisors may remove a sheriff from office for cause, by a four-fifths vote, after both of the following have occurred:
 - a) The sheriff is served with a written statement of the alleged grounds for removal; and,
 - b) The sheriff is provided a reasonable opportunity to be heard regarding an explanation or defense at a removal proceeding.
- 2) Defines “cause” as:
 - a) Violation of any law related to the performance of a sheriff’s duties;
 - b) Flagrant or repeated neglect of a sheriff’s duties;
 - c) Misappropriation of public funds or properties committed by a sheriff or their direct reports in the course and scope of their duties;
 - d) Willful falsification of a relevant official statement or document committed by a sheriff in the course and scope of their duties; or,
 - e) Obstruction of an investigation into the sheriff or a sheriff’s department.
- 3) States that the board of supervisors may establish procedures for a removal proceeding held pursuant to these provisions.
- 4) Provides that these provisions shall not be applied in a manner that interferes with the constitutional functions of a sheriff.

EXISTING LAW:

- 1) Requires the Legislature to provide for county powers, elected sheriffs, district attorneys, assessors, and the governing bodies in each county. (Cal. Const., art. XI, § 1, subd. (b).)
- 2) Provides that the Legislature may provide for the recall of local officers, including sheriffs. (Cal. Const., art II, § 19.)

- 3) Requires charters of charter counties to provide for the appointment, compensation, terms and removal of elected sheriffs. (Cal. Const., art. IX, § 4.)
- 4) Provides that a sheriff is an officer of a county. (Gov. Code, § 24000.)
- 5) States that the county officers to be elected by the people include the sheriff, among others. (Gov. Code, § 24009, subd. (a).)
- 6) Provides that elected county officers shall hold their office until their successors are elected or appointed and qualified. (Gov. Code, § 24201.)
- 7) Sets forth the duties of sheriffs. (Gov. Code, §§ 26600 et seq; Pen. Code, §§ 4000 et seq.)
- 8) Requires each county to have a board of supervisors consisting of five members. (Gov. Code, § 25000.)
- 9) Requires each county board of supervisors to publish notices of proceedings to the public and requires that all meetings of a legislative body, including county board of supervisors, be open and public, pursuant to the Ralph M. Brown Act, as specified. (Gov. Code, §§ 25150, 25151, & 54950 et seq.)
- 10) Authorizes county boards of supervisors to do and perform all acts and things required by law to the full discharge of the duties of the legislative authority of the county government. (Gov. Code, § 25207.)
- 11) Provides that the board of supervisors shall supervise the official conduct of all county officers, particularly insofar as the functions and duties of such county officers relate to the assessing, collecting, safekeeping, management, or disbursement of public funds. It shall see that they faithfully perform their duties. (Gov. Code, § 25303.)
- 12) States that the board of supervisors shall not obstruct the investigative function of the sheriff. (Gov. Code, § 25303.)
- 13) Allows counties to create a sheriff oversight board, comprised of civilians to assist the board of supervisors with its duties that relate to the sheriff. (Gov. Code, § 25303.7.)
- 14) Allows counties to establish an office of the inspector general, appointed by the boards of supervisors, to assist the board of supervisors with its duties that relate to the sheriff. (Gov. Code, § 25303.7.)
- 15) Allows an accusation to be brought by a grand jury for the removal of any officer of a county, including a sheriff, for willful or corrupt misconduct in office. The trial shall be by a jury, and conducted in all respects in the same manner as the trial of an indictment. Upon a conviction the officer shall be defendant be removed from office. (Gov. Code, §§ 3060, et seq.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “No government official should have unchecked power. Regardless of the office or role, public officials take an oath to support and respect the rights of their constituents and represent the common good. But when a Sheriff abuses their power, our tools for meaningful accountability are tragically far and few. As such, AB 1090 ensures government accountability by authorizing a county board of supervisors to remove a sheriff from office for cause.”
- 2) **Removal Must Be For Cause:** This bill would provide that a board of supervisors may remove a sheriff from office *for cause*, by a four-fifths vote. Consequently, this bill would not allow a county board of supervisors to vote to remove a sheriff at their will, for any reason whatsoever.

This bill would define “for cause” as a violation of any law related to the performance of a sheriff’s duties, flagrant or repeated neglect of duties, misappropriation of public funds, willful falsification of a official statement or document, or, obstruction of a investigation into the conduct of a sheriff. This bill would further provide that authority to remove cannot be applied to interfere with the constitutionally designated function of a sheriff. Therefore, a sheriff could not be removed for performing law enforcement functions. In addition, Government Code section 25303 expressly bars the local governing body from obstructing the sheriff’s investigative functions.

- 3) **Due Process Afforded to Sheriffs:** The due process right, established by the Fourteenth Amendment, guarantees that the government cannot take a person’s basic rights to “life, liberty, or property, without due process of law.” The right is designed to protect citizens from actions taken by state government, counties, towns, and cities. At a minimum, due process means that a citizen who will be affected by a government decision must be given advance notice and an opportunity to be heard. (*Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314.)

The provisions of this bill affords sheriff’s such procedures prior to their removal. Specifically, a sheriff cannot be removed unless (1) the removal is for cause only; (2) there is a supermajority (four-fifths) vote by the county board of supervisors to remove the sheriff; (3) the sheriff is served with a written statement of the alleged grounds for removal; (4) the sheriff is provided a reasonable opportunity to be heard and present an explanation or defense at a removal proceeding; and, (5) the county supervisors may establish additional procedures for a the removal proceedings. In addition, under existing law, the public must be given notice, all meetings and meetings of the board of supervisors must generally be held in public and pursuant to the Ralph M. Brown Act. (Gov. Code, §§ 25150, 25151, & 54950 et seq.)

Thus, it is likely that this bill comports with the requirements of due process in that sheriffs may only be removed from office after the board has provided reasonable notice, to both the officer and the general public, and only after the sheriff has had an opportunity to be heard.

- 4) **Similar Local Measures:** Relying on their powers as charter counties¹, Los Angeles and San Bernardino Counties have adopted local measures that would authorize them to remove an elected sheriff for cause. This bill would provide the statutory authority for all counties to remove their sheriff for cause. This bill would further set minimum guidelines across all county boards of supervisors for the sheriff's removal.

- a) **Los Angeles County - Measure A “Charter Amendment – Providing Authority to Remove an Elected Sheriff for Cause” (November 8, 2022):** In the November 2022 Elections, Los Angeles County Measure A was on the ballot and was approved by 71.84% of the vote. (Los Angeles County Registrar-Recorder/County Clerk, *LA County Election Results* <<https://results.lavote.gov/#year=2022&election=4300>> [as of April 3, 2023].) Measure A amended the Los Angeles County Charter to authorize the Los Angeles County Board of Supervisors to remove the sheriff from office for cause, by a four-fifths vote. (*Ibid.*)

This bill is substantially similar to Measure A.

- b) **San Bernardino County - Ordinance No. 3875 (2002):** In 2002, the San Bernardino County Board of Supervisors adopted Ordinance No. 3875, (involving the removal of county officers, including the sheriff. (San Bernardino County Code § 13.0404.) The ordinance provides, in part, that removal for cause may be accomplished by a four-fifths vote of the board: “Any County officer other than supervisor may be removed from office in the manner provided by law; also any such officer may be removed by a four-fifths vote of the Board of Supervisors, for cause, after first serving upon such officer a written statement of alleged grounds for such removal, and giving him a reasonable opportunity to be heard in the way of explanation or defense.” (*Ibid.*) The ordinance also clarified that it could “not be applied to interfere with the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the sheriff and the district attorney.” (*Ibid.*)

In response to the ordinance, the San Bernardino District Attorney sought an opinion from the California Attorney General, of whether a county may “grant the board of supervisors the authority to remove for cause by a four-fifths vote the sheriff [...] upon due notice and opportunity to be heard.” (84 Ops.Cal.Atty.Gen. 88 (2001).) In response, the Attorney General found “that the removal of county officers is a subject that may be contained in a county charter” and “the Constitution has not expressly provided otherwise. (*Ibid.*)

The San Bernardino County Sheriff also filed a civil complaint, contending that the ordinance is unconstitutional. The California Court of Appeal rejected the Sheriff's challenges and held that the ordinance is facially constitutional and valid. (*Penrod v. County of San Bernardino* (2005) 126 Cal.App.4th 185, 188.) The court determined that the ordinance is specifically authorized by the California Constitution, and is consistent

¹ The Legislature provides for the recall of local officer in general law counties. (Cal. Const. art II, § 19.) The charter of charter counties provide for the “compensation, terms and removal” of the sheriff.” (Cal. Const., art. XI, § 4.)

with the Government Code. (*Ibid.*)

5) Other Existing Options for Removing Sheriffs:

- a) **Grand Jury Accusation and Trial:** An accusation against any officer of a district, county, or city, including a sheriff, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for, or in, which the officer accused is elected or appointed. (Gov. Code, §§ 3060 et seq.) These grand jury accusations are usually initiated by the district attorney who is statutorily authorized to present evidence of crime or official misconduct to the grand jury. The district attorney will have had the offense investigated and will have marshalled the evidence relevant thereto prior to its presentation to the grand jury. The grand jury then evaluates the evidence in secret deliberations and decides by vote whether to issue an accusation. An accusation can be found only with the concurrence of 12 grand jurors (8 for 11 member grand juries and 14 for 23 member grand juries.) (*Ibid.*)
- b) **Quo Warranto Removal:** Quo warranto (Latin for “by what authority”) is a legal action most typically brought to resolve disputes concerning the right to hold public office. (Code Civ. Proc., §§ 803 et seq.) In California, a Quo warranto proceeding may be brought by the Attorney General to determine whether holders of a public officer are legally entitled to hold that office or exercise those powers. The court may not hear the action unless it is brought or authorized by the Attorney General. (*Cooper v. Leslie Salt Co.* (1969) 70 Cal.2d 627, 633.) Quo warranto tries *title* to public office, i.e. the right to hold public office; it may not be used to remove an incumbent for misconduct in office. (*Wheeler v. Donnell* (1896) 110 Cal. 655.)
- c) **Vacancies for Reasons other than Misconduct:** Death, resignation, mental or physical incapacity, relocating, and other such situations that may create vacancies in the office of an elected sheriff law. Courts have ruled that vacancies for reasons other than removal may be filled without any sort of hearing or proceeding. (*Klose v. Superior Court in & for San Mateo County* (1950) 96 Cal.App.2d 913, 917; *People ex rel. Tracy v. Brite* (1880) 55 Cal. 79.)
- d) **Recall by Voters:** A county sheriff can be recalled by the voters under the terms set forth in the Election Code. Article II, section 19 of the California Constitution requires the Legislature to “provide for recall of local officers.”² Accordingly, the Legislature established a statutory recall procedure for recalling sheriffs and other general law county officers. (Elec. Code, § 11000, et seq.)

Nothing in this bill limits any of these existing options for the removal of a sheriff. However, this bill would extend to circumstances in which a board of supervisors may

² General law counties possess only those powers expressly conferred upon them by the California Constitution and the Legislature, and therefore they cannot create their own recall or removal procedures absent statutory authorization. (*Younger v. Board of Supervisors* (1979) 93 Cal.App.3d 864, 870.) A charter county, on the other hand, has authority to adopt its own procedure to recall its sheriff. (Cal. Const., art. XI, § 4.) When presented with a county charter contains no recall procedure, the California Supreme Court held that “in such a situation the recall proceedings must conform to the general law” as set forth in statute. (*Muehleisen v. Forward* (1935) 4 Cal.2d 17, 19.)

need to act expeditiously to remove a county sheriff, rather than wait for a grand jury to convene or a recall election to be held.

- 6) **Argument in Support:** According to *Oakland Privacy*, “In recent years, many county sheriffs have taken actions and run their departments in ways that have caused friction in the community and distress on elected county boards of supervisors. Prominent examples include Alameda County, where for a number of years the former Sheriff Gregory Ahern continued to voluntarily detain inmates on behalf of ICE despite Board of Supervisor resolutions and strong community sentiments to end the practice, and Los Angeles where former sheriff Alex Villanueva obstructed an investigation into an in-custody death and threatened criminal charges against a reporter, before walking that back. In addition, some sheriffs throughout the state declined to enforce public health mandates put into place by county health officers and supervisors.

“According to current law, the remedy for such situations is an electoral one, with voters having the power to administer a rebuke to a current sheriff by voting for another candidate for the position in the next election, which can be as long as four years into the future. In the cases cited above, voters did exactly that by replacing Sheriff Gregory Ahern with Sheriff Yesenia Sanchez and replacing Sheriff Alex Villanueva with Sheriff Robert Luna.

“However, such remedies are not always available to the voters, especially in the smaller counties of California. The majority of sheriff elections are uncontested, meaning there is only one candidate, and voters can only vote yes or abstain. California’s rural and small counties deserve an equal level of accountability to that of California’s larger counties, and it is far from guaranteed that in all cases, even large and urban counties will have a regular voter referendum on their sheriff. In Alameda County, prior to 2022, the then-incumbent sheriff Ahern faced no opposition for four consecutive election cycles, a period of sixteen years beginning in 2006.

“The current accountability measures in place, apart from elections, derive from the Board of Supervisor’s power of the purse in setting a sheriff’s department budget. This is not an insignificant source of leverage, but it risks distorting the budget process to address issues of policy and accountability that are not primarily financial in nature. We would argue that good governance dictates not shoving misconduct issues into the budgetary process.

“There is no doubt that is a sobering thing to allow one elected body to potentially remove an elected officer. Nonetheless, our State and Federal governments permit such through the process of impeachment - with a 2/3rds vote. AB 1090 is simply a recognition that an elected sheriff, unlike an elected body of more than one person, has no collegial process to address issues of misconduct that are addressed by a removal process on a board, council or commission, or by impeachment at the State and Federal levels, and that the electoral remedy is often not practicably available to the voters.

“In essence, AB 1090 asks what is misconduct by a sheriff, and if and when it occurs, where is the remedy that is available in a timely and consistent manner? Under current law, there really isn’t one. Here in Alameda County, the former sheriff’s declaration that policy mandates from the Board of Supervisors and overwhelming public sentiment would not impact the conduct of the sheriff’s office with regard to ICE became a long-term public wound. It did enormous damage to the faith of the county’s voters in the sheriff’s department

and in the efficacy of the Board of Supervisors. After a decade of no available remedy, the damage had already been done and the new sheriff has a big job to restore trust and relationships.

“We would argue that the democratic process i.e. what the voters wanted, was delayed for an unforgivably long time due to the limitations of current law and held hostage to the “personal beliefs” of the former sheriff and the difficulty of finding candidates willing to run against a powerful incumbent.

“Unlike sheriffs, it is a rare occasion, although not unheard of, that a county supervisor position is elected in an uncontested election. The voter “check and balance” is more consistent and AB 1090 allows for a county board of supervisors to develop a due process procedure that can include additional steps to protect against an ideologically-based removal process. We encourage making that process as robust as possible, but given the limitations in current law, *a* process beyond waiting for the next election should be implemented.”

- 7) **Argument in Opposition:** According to the *California Statewide Law Enforcement Association* (CSLEA), “Sheriffs, like county boards of supervisors are elected and held accountable by the voters.

“Shifting power and accountability from the voters to the Board risks injecting politics and petty disagreements into the removal of a Sheriff, overriding the will of the voters.

“By nullifying the will of the voters, the Board of Supervisors will become the judge, jury, and executioner for the Office of the Sheriff. We believe these decisions are best left to the voters.”

- 8) **Related Legislation:** AB 797 (Weber), would require the governing body of each city and county to, by January 15, 2025, create an independent community-based commission on law enforcement officer practices.
- 9) **Prior Legislation:** AB 1185 (McCarty), Chapter 342, Statutes of 2020, authorized counties to create a sheriff’s oversight board and an office of inspector general.

REGISTERED SUPPORT / OPPOSITION:

Support

Black Lives Matter – Los Angeles
Initiate Justice
Oakland Privacy
Secure Justice

Opposition

Association of Orange County Deputy Sheriffs
California Fraternal Order of Police
California State Sheriffs' Association
California Statewide Law Enforcement Association

Deputy Sheriffs Association of San Diego County
Long Beach Police Officers Association
Sacramento County Deputy Sheriffs' Association
San Bernardino County Sheriff's Employees' Benefit Association

Analysis Prepared by: Liah Burnley / PUB. S. / (916) 319-3744

RESOLUTION NO. ____-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE,
IN OPPOSITION TO STATE SENATE BILL 94

WHEREAS, existing State law provides for various specified special circumstances, including murder committed for financial gain or committed during the commission or attempted commission of certain felonies, which, if found true as specified, require a defendant found guilty of murder in the first degree to be sentenced to death or imprisonment for life without the possibility of parole; and

WHEREAS, existing State law added by Proposition 115 of the June 5, 1990, statewide primary election, prohibits a judge from striking or dismissing any special circumstance that is admitted by plea or found true by a jury or court, as specified; and

WHEREAS, existing State law generally authorizes a court to dismiss an action or to strike or dismiss an enhancement in the furtherance of justice, except if dismissal of that enhancement is prohibited by any initiative statute; and

WHEREAS, Senate Bill 94 (SB 94) would authorize an individual sentenced to death or life imprisonment without the possibility of parole for a conviction in which one or more special circumstances were found to be true to petition for recall and resentencing if the offense occurred before June 5, 1990, and the individual has served at least twenty (20) years in custody; and

WHEREAS, SB 94 would authorize the court to modify the petitioner's sentence to impose a lesser sentence and apply any changes in law that reduce sentences or provide for judicial discretion, or to vacate the petitioner's conviction and impose judgement on a lesser included offense, as specified; and

WHEREAS, SB 94 would require a court to consider and afford great weight to evidence offered by the petitioner to prove that specified mitigating circumstances are present, and

WHEREAS, SB 94 would provide that proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of the dismissing a special circumstance, unless the court finds that petitioner is currently an unreasonable risk of danger to public safety, as

defined; and

WHEREAS, SB 94 would require the court to appoint the State Public Defender or other qualified counsel for an indigent petitioner.

NOW, THEREFORE, it is hereby DECLARED and ORDERED, that the City Council of the City of Porterville does hereby oppose Senate Bill 94.

This Resolution shall take effect from and after the date of its passage and adoption by this Council.

PASSED, APPROVED, AND ADOPTED this 2nd day of May, 2023.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

AMENDED IN SENATE MARCH 23, 2023

SENATE BILL

No. 94

Introduced by Senator Cortese
(Principal coauthor: Senator Becker)
(Coauthors: Senators Skinner and Wiener)
(Coauthors: Assembly Members Jackson and Weber)

January 18, 2023

An act to add Section 1172.5 to the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

SB 94, as amended, Cortese. Recall and resentencing: special circumstances.

Existing law provides for various specified special circumstances, including murder committed for financial gain or committed during the commission or attempted commission of certain felonies, which, if found true as specified, require a defendant found guilty of murder in the first degree to be sentenced to death or imprisonment for life without the possibility of parole. Existing law, added by Proposition 115 of the June 5, 1990, statewide primary election, prohibits a judge from striking or dismissing any special circumstance that is admitted by plea or found true by a jury or court, as specified. Existing law generally authorizes a court to dismiss an action or to strike or dismiss an enhancement in the furtherance of justice, except if dismissal of that enhancement is prohibited by any initiative statute.

This bill would authorize an individual sentenced to death or life imprisonment without the possibility of parole for a conviction in which one or more special circumstances were found to be true to petition for recall and resentencing if the offense occurred before June 5, 1990, and the individual has served at least 20 years in custody. The bill would

authorize the court to modify the petitioner's sentence to impose a lesser sentence and apply any changes in law that reduce sentences or provide for judicial discretion, or to vacate the petitioner's conviction and impose judgment on a lesser included offense, as specified. The bill would require a court to consider and afford great weight to evidence offered by the petitioner to prove that specified mitigating circumstances are present. The bill would provide that proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of dismissing a special circumstance, unless the court finds that petitioner is currently an unreasonable risk of danger to public safety, as defined. The bill would require the court to appoint the State Public Defender or other qualified counsel for an indigent petitioner.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In the last 10 years, the Legislature has enacted numerous
4 reforms to require judges to consider mitigating factors in
5 sentencing, including: whether the individual to be sentenced is
6 or was a victim of intimate partner violence, sexual violence, or
7 human trafficking (AB 124 enacted in 2021); whether the
8 individual experienced childhood trauma, including abuse, neglect,
9 exploitation, or sexual violence (AB 124 enacted in 2021); whether
10 the individual was young, meaning under 26 years of age, at the
11 time of the offense (AB 124 enacted in 2021, SB 260 enacted in
12 2013, SB 261 enacted in 2015); whether the individual was a
13 veteran and the conduct was related to trauma experienced in the
14 military (AB 2098 enacted in 2014, AB 865 enacted in 2018, SB
15 1209 enacted in 2022); whether the individual suffers from
16 cognitive impairment, intellectual disability, or mental illness (AB
17 2512 enacted in 2020, SB 215 enacted in 2018); and whether there
18 was racial bias in the proceedings (AB 2542 enacted in 2021, AB
19 256 enacted in 2022).

20 (b) In the last 10 years, the Legislature has also enacted reforms
21 recognizing that individuals are capable of redemption and
22 requiring judges, when reviewing previously imposed sentences,
23 to consider changed circumstances such as an individual's

1 rehabilitation while in custody, that the passage of time may
2 significantly change the relevance of factors previously considered
3 in sentencing, and that other changed circumstances may mean
4 that an originally imposed sentence is no longer in the interest of
5 justice (AB 1812 enacted in 2018, AB 2942 enacted in 2018, AB
6 1540 enacted in 2021, AB 960 enacted in 2022).

7 (c) It is necessary to correct sentences that would not be imposed
8 today because of legal reforms enacted since an individual's
9 conviction. Judges should have the opportunity to take a second
10 look at these sentences in light of evolving standards of decency
11 and reforms that mandate the consideration of mitigating factors
12 at sentencing such as youth, childhood trauma, victimization, race,
13 military service and mental illness, and in light of changed
14 circumstances, including an individual's rehabilitation.

15 (d) While individuals sentenced to parole-eligible sentences
16 have an opportunity for some of these mitigating factors and
17 changed circumstances to be considered in the parole process,
18 individuals sentenced to life without parole or death do not.

19 (e) It is the intent of the Legislature that judges be given an
20 opportunity to review sentences of life without parole or death for
21 offenses ~~prior to~~ *before* June 5, 1990, to exercise their discretion
22 in sentencing, considering mitigating factors and changed
23 circumstances as now required in sentencing.

24 SEC. 2. Section 1172.5 is added to the Penal Code, to read:

25 1172.5. (a) An individual who has been sentenced to death or
26 life imprisonment without possibility of parole for a conviction in
27 which one or more of the special circumstances enumerated in
28 Section 190.2 has been found true, may petition the court to recall
29 the sentence and resentence to a lesser sentence if:

30 (1) The offense occurred before June 5, 1990.

31 (2) The individual has served at least 20 years in custody.

32 (b) (1) The petition shall be filed with the court that sentenced
33 the petitioner and served on the district attorney, or on the agency
34 that prosecuted the petitioner. The presiding judge shall designate
35 a judge to rule on the petition. The petition shall include all of the
36 following:

37 (A) A declaration by the petitioner that the petitioner is eligible
38 for relief pursuant to subdivision (a).

39 (B) The superior court case number and date of the petitioner's
40 offense and conviction.

1 (C) Whether the petitioner currently has counsel and, if not,
2 whether the petitioner is indigent.

3 (2) If any of the information required by this subdivision is
4 missing from the petition and cannot be readily ascertained by the
5 court, the court may deny the petition without prejudice to the
6 filing of another petition and advise the petitioner that the matter
7 cannot be considered without the missing information.

8 (c) The court shall review the petition and determine if it alleges
9 the elements set forth in subdivision (a). If the subject of the
10 petition does not have counsel and is indigent, the court shall
11 appoint the State Public Defender or other qualified counsel to
12 represent the individual. If counsel is newly appointed, they may
13 file a supplementary petition within 60 days. The prosecutor may
14 file and serve a response within 60 days of service of the petition
15 or supplementary petition and the petitioner may file and serve a
16 reply within 30 days after the prosecutor response is served. These
17 deadlines shall be extended for good cause.

18 (d) (1) Within 60 days after the reply is filed, the court shall
19 hold a hearing to determine whether to recall the sentence and
20 resentence the petitioner. This deadline may be extended for good
21 cause.

22 (2) The resentencing court may, in the interest of justice and
23 regardless of whether the original sentence was imposed after a
24 trial or plea agreement, do the following:

25 (A) May modify the petitioner's sentence to impose a lesser
26 sentence, and apply any changes in law that reduce sentences or
27 provide for judicial discretion.

28 (B) May vacate the petitioner's conviction and impose judgment
29 on any necessarily included lesser offense, whether or not that
30 offense was charged in the original pleading, and then resentence
31 the petitioner to a lesser sentence.

32 (3) The parties may waive a resentencing hearing and stipulate
33 that the petitioner is eligible for recall and resentencing.

34 (4) A petitioner who is resented pursuant to this section shall
35 be given credit for time served.

36 (5) Resentencing under this subdivision shall not result in the
37 imposition of a term longer than the original sentence.

38 (6) The court shall state on the record the reasons for its decision
39 to grant or deny recall and resentencing.

1 (e) (1) In considering a petition pursuant to this section, the
2 court shall consider and afford great weight to evidence offered
3 by the petitioner to prove that any of the following mitigating
4 circumstances are present:

5 (A) The petitioner was a victim of intimate partner violence,
6 sexual violence, or human trafficking.

7 (B) The petitioner experienced childhood trauma, including
8 abuse, neglect, exploitation, or sexual violence.

9 (C) The petitioner is a veteran and the conduct involved in the
10 offense related to trauma experienced in the military.

11 (D) The petitioner has been diagnosed with cognitive
12 impairment, intellectual disability, or mental illness.

13 (E) The petitioner was a youth, as defined under subdivision
14 (b) of Section 1016.7 at the time of offense.

15 (F) The sentence violates Section 745 (the California Racial
16 Justice Act).

17 (G) The petitioner's age, time served, or diminished physical
18 condition reduces the petitioner's risk for future violence.

19 (2) Proof of the presence of one or more of these circumstances
20 weighs greatly in favor of dismissing the special circumstance,
21 unless the court finds that the petitioner is currently an
22 unreasonable risk of danger to public safety, as defined in
23 subdivision (c) of Section 1170.18.

24 (f) The court shall consider postconviction factors, including,
25 but not limited to, the disciplinary record and record of
26 rehabilitation of the petitioner while incarcerated, and evidence
27 that reflects that circumstances have changed since the original
28 sentencing so that the sentence originally imposed is no longer in
29 the interest of justice.

30 (g) This section does not diminish or abrogate any rights or
31 remedies otherwise available to the subject of the petition.

32 (h) If the judge declines to impose a reduced sentence, a
33 subsequent petition pursuant to this section may be filed if at least
34 two years have passed from the denial of the prior application.

35 (i) The petitioner may appear remotely, and the court may
36 conduct the hearing through the use of remote technology, unless
37 counsel requests their physical presence in court and if not
38 otherwise prohibited by state law.

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SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair
2023 - 2024 Regular

Bill No: SB 94 **Hearing Date:** April 11, 2023
Author: Cortese
Version: March 23, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Recall and resentencing: special circumstances*

HISTORY

Source: Ella Baker Center for Human Rights

Prior Legislation: SB 300 (Cortese) not heard Assembly floor 2021-2022
SB 1437 (Skinner) Chapter 105, Stats. 2018
SCR 48 (Skinner) Chapter 175, Stats. 2017
SB 878 (Hayden) Failed Senate Floor 1999

Support: 8th Amendment Project; A New Way of Life Reentry Project; Alliance for Boys and Men of Color; American Friends Service Committee; Amnesty International USA; Asian Pacific Islander Re-entry and Inclusion Through Support and Empowerment; Asian Prisoner Support Committee; Bend the Arc: Jewish Action California; Black Women Organized for Political Action (BWOPA); Blameless and Forever Free Ministries; California Attorneys for Criminal Justice; California Catholic Conference; California Coalition for Women Prisoners; California Families Against Solitary Confinement; California Immigrant Policy Center; California Native Vote Project; California Public Defenders Association (CPDA); Californians for Safety and Justice; Californians United for A Responsible Budget; Center for Employment Opportunities; Center on Juvenile and Criminal Justice; City of Oakland Mayor Sheng Thao; Communities United for Restorative Youth Justice (CURYJ); Community Agency for Resources, Advocacy and Services; Community Legal Services in East Palo Alto; Courage California; Cure California; Decarcerate Sacramento; Drop LWOP Coalition; Drug Policy Alliance; Ella Baker Center for Human Rights; Empowering Pacific Islander Communities (EPIC) Fiscally Sponsored by Community Partners; End Solitary Santa Cruz County; FUEL - Families United to End LWOP; Fair Chance Project; Faith in Action East Bay; Families Against Mandatory Minimums Foundation; Felony Murder Elimination Project; Foundation Aussergewöhnlich Berlin; Friends Committee on Legislation of California; Holy Cross Lutheran Church, Livermore, CA; Housing and Economic Rights Advocates; Human Rights Watch; If/When/How: Lawyering for Reproductive Justice; Individual; Indivisible CA Statestrong; Indivisible Sacramento; Indivisible San Francisco; Indivisible Yolo; Initiate Justice; Inland Equity Partnership; Interfaith Movement for Human Integrity; Islamic Shura Council of Southern California; John Burton Advocates for Youth; Justice2jobs Coalition; La Defensa; Latinojustice Prldef; Law Enforcement Action Partnership; Lawyers' Committee for Civil Rights of The San

Francisco Bay Area; Legal Services for Prisoners With Children; Long Beach Immigrant Rights Coalition; Milpa (motivating Individual Leadership for Public Advancement); National Association of Social Workers, California Chapter; National Center for Lesbian Rights; National Harm Reduction Coalition; North Bay Jobs With Justice; Peninsula Multifaith Coalition; Prosecutors Alliance California; Restore Oakland, INC.; Root & Rebound; Safe Return Project; San Francisco Public Defender; Santa Cruz Barrios Unidos INC.; Secure Justice; Showing Up for Racial Justice (SURJ) Bay Area; Showing Up for Racial Justice Santa Cruz County; Silicon Valley De-bug; Sister Warriors Freedom Coalition Smart Justice California; Social Change; Starting Over, INC.; Survived & Punished; Techequity Collaborative; The Place4grace; The Resistance Northridge-indivisible; The San Diego Lgbt Community Center; The Transformative In-prison Workgroup; Unapologetically Hers; Uncommon Law; Underground Grit; Underground Scholars Initiative At the University of California, Irvine; United Core Alliance; White People 4 Black Lives; Young Women's Freedom Center

Opposition: California Association of Highway Patrolman; California District Attorneys Association; California State Sheriffs' Association; Crime Victims United of California; San Diegans Against Crime; San Diego County District Attorney's Office; San Diego Deputy District Attorneys Association

PURPOSE

The purpose of this bill is to set up a process for a person who has been sentenced to death or life imprisonment before June 5, 1990 can seek a recall of their sentence and be resentenced to a lesser sentence.

Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought. (Penal Code, § 187(a))

Existing law defines malice for this purpose as either express or implied and defines those terms.

- It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature.
- It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart. (Penal Code § 188)

Existing law defines first degree murder, in part, as all murder that is committed in the perpetration of, or attempt to perpetrate, specified felonies. (Penal Code § 189.)

Existing law, as enacted by Proposition 7, approved by the voters at the November 7, 1978, statewide general election, prescribes a penalty for that crime of death, imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. (Penal Code § 190)

Existing law provides that the penalty for a defendant who is found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole if one or more of 22 special circumstances are found to be true. (Penal Code § 190.2)

This bill provides that an individual who has been sentenced to death or life imprisonment without possibility of parole for a conviction in which one or more special circumstance has been found true, may petition the court to recall the sentence and resentence to a lesser sentence if:

- 1) The offense occurred before June 5, 1990.
- 2) The individual has served at least 20 years in custody.

This bill provides that the petition shall be filed with the court that sentenced the petitioner and served on the district attorney or on the agency that prosecuted the petitioner.

This bill provides that the presiding judge shall designate a judge to rule on the petition.

This bill provides that the petition shall include all the following:

- 1) A declaration by the petitioner that the petitioner is eligible for relief.
- 2) The superior court case number and date of the petitioner's offense and conviction.
- 3) Whether the petitioner currently has counsel, and if not, whether the petitioner is indigent.

This bill provides that if any of the information required by this subdivision is missing from the petition and cannot be readily ascertained by the court may deny the petition without prejudice to the filing of another petition and advise the petitioner that matter cannot be considered without the missing information.

This bill provides that the court shall review the petition and determine if it alleges the elements required.

This bill provides that if the court does not have counsel and is indigent, the court shall appoint the State Public Defender or other qualified counsel to represent the individual.

This bill provides if counsel is newly appointed, they may file a supplementary petition within 60 days.

This bill provides that the prosecutor may file and serve a response within 60 days of service of the petition or supplementary petition and the petitioner may file and serve a reply within 30 days after the prosecutor response is served.

This bill provides that the deadlines may be extended for good cause.

This bill provides that within 60 days after the reply is filed, the courts shall hold a hearing to determine whether to recall the sentence and resentence the petitioner.

This bill provides that the resentencing court may in the interest of justice and regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:

- 1) May modify the petitioner's sentence to impose a lesser sentence, and apply any changes in law that reduce sentences or provide for judicial discretion.
- 2) May vacate the petitioner's conviction and impose judgment on a necessarily included lesser offense, wither or not that offense was charged in the original pleading, and then resentence the petitioner to a lesser sentence.

This bill provides that the parties may waive a resentencing hearing and stipulate that the petitioner is eligible for recall and resentencing.

This bill provides that a petitioner who is resentenced shall be given credit for time served.

This bill provides that resentencing under this subdivision shall not result in the imposition of a term longer than the original sentence.

This bill provides that the court shall state on the record the reasons for its decision to grant or deny recall and resentencing.

This bill provides that in considering a petition pursuant to this section, the court shall consider and afford great weight to evidence offered by the petitioner to prove that any of the following mitigating circumstances are present:

- 1) The petitioner was the victim of intimate partner violence, sexual violence, or human trafficking;
- 2) The petitioner experienced childhood trauma, including abuse, neglect, exploitation, or sexual violence.
- 3) The petitioner is a veteran and the conduct involved in the offense related to trauma experienced in the military.
- 4) The petitioner has been diagnosed with cognitive impairments, intellectual disability, or mental illness.
- 5) The petitioner was under the age of 26 at the time of the offense.
- 6) The sentence violates the California Racial Justice Act.
- 7) The petitioner's age, time served, or diminished physical condition reduces the petitioner's risk for future violence.

This bill provides that proof of the presence of one or more of the above circumstances weighs greatly in favor of dismissing the special circumstance, unless the court finds that the petitioner is currently an unreasonable risk of danger to public safety.

This bill provides that the court shall consider postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the petitioner while incarcerated, and evidence that reflects that circumstances have changed since the original sentence so that the sentence originally imposed is no longer in the interest of justice.

This bill provides that it does not diminish or abrogate any rights or remedies otherwise available to the subject of the petition.

This bill provides that if the judge declines to impose a reduced sentence, a subsequent petition pursuant to this section may be filed if at least two years have passed for the denial of the prior application.

This bill provides that the petitioner may appear remotely, and the court may conduct the hearing through the use of remote technology, unless counsel requests their physical presence in court and if not otherwise prohibited by state law.

This bill contains uncodified Legislative findings and declarations.

COMMENTS

1. Need for This Bill

According to the author:

Existing law provides that when a prosecutor charges a special circumstance enhancement and it is found true, a person found guilty of first degree murder with special circumstances shall be punished by death or LWOP. (Pen. Code, § 190.2.) Prop 115, passed by the voters on June 5, 1990, removed from judges the discretion to dismiss a special circumstance finding after it has been found true. Judges retain the power to dismiss special circumstances after they have been found true for offenses that occurred before June 5, 1990.

Penal Code section 1172.1 permits a judge, prosecutor or CDCR to recall a sentence for reconsideration. This code section does not permit an individual to petition for recall and reconsideration of a sentence.

The majority of people serving a life without parole sentence are classified as low risk according to California Department of Corrections and Rehabilitation (CDCR)'s own California Static Risk Assessment tool - 88% of people serving life without parole have been assessed with the lowest risk score on that scale. Research also conclusively demonstrates that there is little risk for elderly individuals to re-offend or recidivate upon release. For individuals previously sentenced to life without parole who were granted a commutation and released, the recidivism rate is zero percent. Based on CDCR data, an analysis from the Special Circumstances Conviction Project of UCLA Center for the Study of Women, estimates that this reform might qualify 200 death penalty cases, and 600 LWOP cases for review.

2. Proposition 115

Existing law, as enacted by Proposition 115, approved by California voters on June 6, 1990, made a number of procedural changes to criminal law in California including changes to discovery and the allowance of hearsay testimony by peace officers at preliminary hearings. It also added additional special circumstances to those for which the death penalty applies and removed from judges the discretion to dismiss a special circumstance finding after it has been found true. Judges retain the power to dismiss special circumstances after they have been found true for offenses that occurred before June 5, 1990.

3. Recall and resentence for cases before June 5, 1990.

Because Judges retain the power to dismiss special circumstances after they have been found true for offenses that occurred before June 5, 1990, this bill sets up a process for people who were sentenced to death or life without the possibility of parole and the offense occurred prior to June 5, 1990 to petition a court to recall the sentence and resentence to a lesser sentence. The person must also have already served at least 20 years in custody.

a. Petition Filed in sentencing court

The petition is to be filed with the court that sentenced the petitioner and served on the district attorney. The presiding judge shall assign a judge to hear a petition, it has been over 20 years so it is unlikely, but not impossible, that the judge who originally heard the case is still on the bench. If the petition does not include required information it can be denied without prejudice.

If the petition is denied, without prejudice, because of something lacking in the petition, should this only occur after an indigent defendant has been appointed counsel?

b. Indigent defendants.

The petition shall include a statement as to whether the petitioner has counsel or if the petitioner is indigent. If the petitioner is indigent, the court shall appoint the State Public Defender or other qualified counsel to represent the defendant. The newly appointed counsel may have 60 days to file a supplementary petition and the district attorney has 60 days to respond to the original or supplementary petition.

c. Actions the court may take

The resentencing court may, in the interest of justice do any of the following:

- Modify the petitioner's sentence to impose a lesser sentence, and apply any changes in law that reduce sentences or provide for judicial discretion.
- Vacate the petitioner's conviction and impose judgement on any necessarily included lesser offense, whether or not that offense was charged in the original pleading, and then resentence the petitioner to a lesser sentence.

d. Considerations by the court

In considering the petition, the court shall consider and afford great weight to evidence offered by the petitioner to prove any of the following mitigating circumstances are present

- The petitioner was victim of intimate partner violence, sexual violence, or human trafficking.
- The petitioner experienced childhood trauma, including abuse, neglect, exploitation, or sexual violence.
- The petitioner is a veteran and conduct involved in the offense related to trauma experienced in the military.
- The petitioner has been diagnosed with cognitive impairment, intellectual disability, or mental illness.
- The petitioner was under the age of 26 at the time of the offense.
- The sentence violates the California Racial Justice Act.
- The petitioner's age, time served, or diminished physical condition reduces the petitioner's risk for future violence.

The bill provides that proof of one of the above weighs greatly in favor of dismissing the special circumstance, unless the court finds that the petitioner is currently at risk to public safety.

The court shall also consider postconviction factors including disciplinary record while incarcerated, rehabilitation of the petitioner while incarcerated, and evidence that reflects the circumstances have changed.

e. Procedural issues

This bill also sets forth a number of procedural considerations:

- The parties may waive a resentencing hearing and stipulate that the petitioner is eligible.
- The petitioner may appear remotely and the court may conduct the hearing using remote technology, unless counsel requests their physical presence.
- A petitioner who is resentence shall be given credit for time served.
- Resentencing under this section should not result in a longer sentence.
- The court shall state on the record the reasons for its decision to grant or deny recall and sentencing.

4. Argument in Support

Supporters of this bill note that nothing in this bill guarantees a person will be resentenced or leave prison, but it is consistent with some of the other recent criminal justice reforms in recognizing that people may change while incarcerated and may no longer pose a threat to society. Specifically the Alliance for Boys and Men of Color states:

There are people languishing in state prisons, that were they in court today, would receive a more just sentence. In the last ten years, the Legislature has enacted several reforms to restore judicial discretion and to allow judges to consider mitigating factors at sentencing, including whether the person was a victim of intimate partner violence or human trafficking or had experienced childhood trauma, exploitation or sexual abuse.

Although individuals sentenced to LWOP or death have no path to parole today, many have exhibited decades of exemplary behavior, participated in extensive positive programming, have come to understand the contributing factors which led to their incarceration, and have devoted themselves to becoming positive members of society. The majority of people serving a life without parole sentence are classified as low risk according to California Department of Corrections and Rehabilitation's own California Static Risk Assessment tool - 88% of people serving life without parole have been assessed with the lowest risk score on that scale. Research also conclusively demonstrates that there is little risk for elderly individuals to re-offend or recidivate upon release. For individuals previously sentenced to life without parole in California who were granted a commutation and released, the recidivism rate is zero percent.

This bill does not guarantee resentencing or release. Any individual who is granted resentencing by a judge will then need to go before the parole board, who will make a determination about their suitability for release. This bill allows courts to consider old cases in light of changes in law, thereby applying the law more fairly.

This will mean that individuals that deserve a second chance won't have to die behind bars. For these reasons, our organization strongly supports SB 94 (Cortese).

5. Argument in Opposition

The California District Attorneys oppose this bills stating:

First, SB 94 subverts the will of The People of the State of California, who voted to prohibit the dismissal of special circumstances in 1990 via Proposition 115. Your bill acknowledges this fact. However, the bill then seeks to avoid this declaration by providing dismissal of special circumstances to sentences not covered by the Proposition. While this is technically legal, it is in direct conflict with the will of the People. Rather than govern through technicality, we suggest you bring the issue back to the voters to see if they agree with you, or abide by the conditions in their initiative—specifically a $\frac{2}{3}$ vote in both houses. As it stands, we must oppose.

Second, your bill would impose a substantial and unwarranted burden on the judicial system, limiting access and extending wait times for individuals in order to allow individuals who have committed the most egregious offenses to seek resentencing. This measure makes no distinction between those who have demonstrated some indicators of redemption or rehabilitation and those who have not. Instead, it would burden the state's already overburdened judicial system and retraumatize the families of murder victims with resentencing hearings for individuals who have shown few or no signs of redemption, and who jurors did not believe were worthy of the opportunity for parole based on the nature of their crimes.

-- END --



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Bid Results - Tule River Parkway, Phase 3 Project

SOURCE: Engineering and Project Management

COMMENT: On February 9, 2023, staff received three bids for the Tule River Parkway, Phase 3 Project. The Project consists of the construction of a Class I Bicycle and Pedestrian Trail between Main and Plano Streets. This phase of a multi-phase trail system will extend 1.25 miles of existing trail to the east, thereby continuing the development of a system of linkages that will provide for alternate modes and routes of travel. The trail will include solar lighting fixtures, bridges, retaining walls, trail signage and markings, and other related appurtenances.

This Project is funded by a federal Congestion Mitigation and Air Quality Improvement (CMAQ) grant, and a required component of that grant is the utilization of Disadvantaged Business Enterprises (DBEs). A project goal is set that must be met or the bidding contractor must demonstrate that all reasonable steps were taken to solicit and encourage DBE participation in the Project. On a project of this size, staff must evaluate each contractor's Good Faith Effort (GFE) package and then submit its findings to Caltrans for review.

The DBE participation goal for this project was set at fifteen percent (15%). The only bidder that met the said goal was bidder number three, Cal Valley Construction, Inc., and its bid was 43.17% higher than the Engineer's Estimate of Probable Cost of \$1,998,950. Since the apparent low bidder, MAC General Engineering, did not meet the DBE participation goal for this project, an evaluation of its GFE package was required. Staff completed its review and submitted its findings to Caltrans as required, and Caltrans agreed that the GFE submitted did not meet the full guidelines of the program. The next apparent low bidder, American Paving Co., did not meet the DBE participation goal for the project either and, as such, an evaluation of its GFE package was also required. Staff completed its review and submitted its findings to Caltrans as required, with the findings that it did meet the full guidelines of the program and all reasonable steps to encourage and obtain DBE participation were completed.

All three bids received are over the Engineer's Estimate; however, deadlines for the grant will make it difficult to rebid this project without jeopardizing the funding. It is also important to note that this is the second attempt at advertising for bids for this Project and the bids received the second time were in-line with the first set of bids in regard to pricing, but the City did receive fewer bids this time. It is reasonable to believe that further attempts would not prove any more

successful.

Bid Results:

<u>Contractor</u>	<u>Bid Amount</u>	<u>DBE Participation</u>	<u>GFE Compliant</u>	<u>Percent Over Estimate</u>
MAC General Engineering, Inc Exeter, CA	\$2,285,014.93	0%	No	14.31%
American Paving Co. Fresno, CA	\$2,536,720	5.02%	Yes	26.9%
Cal Valley Construction, Inc Fresno, CA	\$2,861,850	32.098%	N/A	43.17%

Staff has found the second bid acceptable, as represented by American Paving Co. of Fresno, in the amount of \$2,536,720. An additional \$253,672 is necessary for construction contingency (10%). It is anticipated that an additional \$253,672 is required for construction staking, construction management, quality control and inspection services (10%) for a total project cost of \$3,044,064. In addition to the base project costs, the recent storms have caused damage to the banks of the Tule River in the area of this Project that will require additional funding for re-design and construction stabilization repairs so that this Project can be successfully completed. The Tulare County Association of Governments (TCAG) has authorized up to \$500,000 of Measure R Alternative Transportation (AT) funds for this additional work. The additional work brings the overall project total to \$3,544,064.

This Project is funded by a federal Congestion Mitigation and Air Quality Improvement (CMAQ) grant in the amount of \$1,825,000. An additional \$124,500 is funded through a previously approved Measure R Supplemental Agreement. TCAG has pledged up to \$500,000 additional Measure R AT funds for the needed repairs, leaving a shortfall of \$1,091,564. Funding for the additional \$1,091,564 is available from Local Transportation Funds (LTF) and would fully fund the Project.

RECOMMENDATION:

That the City Council consider:

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

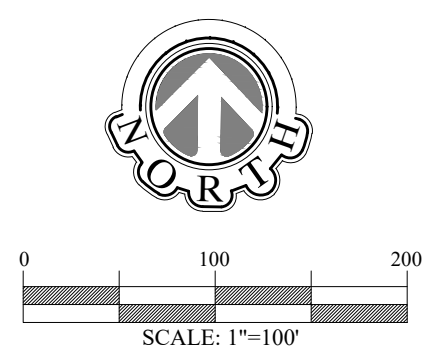
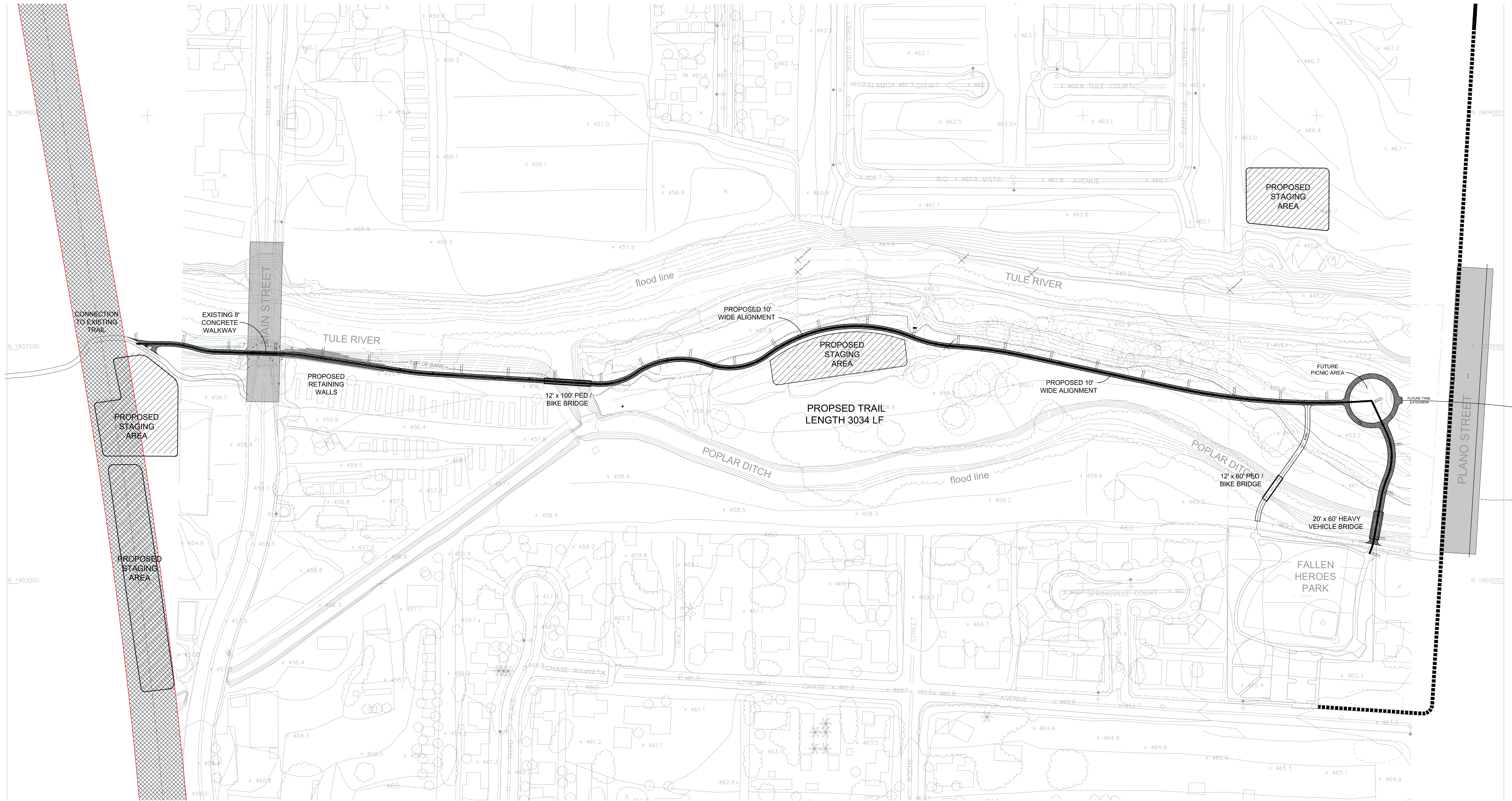
ATTACHMENTS: 1. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager



CITY OF PORTERVILLE
ENGINEERING DIVISION

291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7462

DESIGN BY	
DRAWN BY	
CHECKED BY	
DATE	

CITY ENGINEER	DATE
PUBLIC WORKS DIRECTOR	R.C.E. DATE

REVISION NO.	DATE

TULE RIVER PARKWAY – PHASE III
TRAIL LAYOUT & ALIGNMENT
PROJECT OVERVIEW

SHEET
C0
OF
25



CITY COUNCIL AGENDA – MAY 16, 2023

SUBJECT: Status and Review of Declaration of Local Flood Emergency

SOURCE: City Manager's Office

COMMENT: On March 13, 2023, Mayor Martha A. Flores in conjunction with the Acting City Manager Patrice Hildreth declared the existence of a local emergency within the City of Porterville. Said Declaration was made pursuant to Chapter 9 of the Porterville Municipal Code, and in response to the increasing threat to life and property in the city caused by a series of storm systems striking California and in particular the Porterville area, impacting Success Lake and significantly increasing flows of the Tule River. Pursuant to the California Emergency Services Act (California Government Code 8558 et seq.), emergency declarations must be ratified by the governing body within seven days of being declared. At its Special Meeting on March 17, 2023, the City Council acted to ratify the Declaration of Local Emergency. The Act also requires that the emergency declaration be renewed every sixty (60) days to remain in effect, which at its meeting on May 2, 2023, the Council reviewed and acted to renew the emergency declaration.

On March 10, 2023, due to the volume of water added to Success Lake from significant storm activity, Tulare County Sheriff Mike Boudreaux issued an Evacuation Warning for both the north and south sides of the Tule River, and the Tulare County Office of Emergency Services (TCOES) established a Temporary Evacuation Point (TEP) and Emergency Shelter in the gymnasium at Porterville College.

On March 15, 2023, due to the water level of Success Lake rising to the point of running over the spillway of the Richard L. Schafer Dam, Sheriff Boudreaux issued a Mandatory Evacuation Order for the residences, businesses and structures between Schafer Dam and Road 284, east of the city of Porterville. On March 18, 2023, due to water levels dropping on the Tule River, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising flood waters, Sheriff Boudreaux issued a Mandatory Evacuation Order for the area between Olive Avenue (Avenue 152) to Avenue 144 and the Friant-Kern Canal and the Tule River and Westwood Street, west of the city of Porterville. On March 25, 2023, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising water levels of the Tule River, City Public Works Department staff took extraordinary measures to protect the

neighborhood north of River Springs Drive, avoiding potentially catastrophic flooding of the area.

On March 16, 2023, due to the historic water levels and flows of the Tule River causing erosion to the river banks, Police Chief Jake Castellow issued a Mandatory Evacuation Order for eight residences along Rio Vista Avenue, providing information on the TEP and Emergency Shelter established at Porterville College. City Public Works Department staff took extraordinary measures over the next several days to mitigate and protect the river banks from affecting the residences. On March 24, 2023, Chief Castellow reduced the Mandatory Evacuation Order of the eight residences back to an Evacuation Warning.

On March 19, 2023, due to continued erosion of the banks of the Tule River and the performance of immediate necessary mitigation efforts by Public Works Department personnel, Chief Castellow issued a Mandatory Evacuation Order for both the north and south banks of the Tule River within City limits (not including permanent structures with a designated address), and provided information on the TEP and Emergency Shelter established at Porterville College. The Public Works Department continues to work diligently in shoring the banks of the Tule River.

To accommodate upcoming ceremonies and events in the gymnasium at Porterville College, the TEP and Emergency Shelter at the College closed at noon on April 11, 2023, and thirty (30) individuals were successfully transitioned to the new TEP at the Porterville Army National Guard Armory. A Special Meeting of the Council was scheduled for April 14, 2023, to consider a draft License agreement for the City's temporary use of the State facility. The American Red Cross continued to provide shelter services at the TEP, but transitioned out on May 5, 2023. With the authority granted to the City Attorney and City Manager at its meeting on April 18, 2023, the City and County drafted a Memorandum of Understanding in an effort to continue TEP shelter services until May 5, 2023, while the Mandatory Evacuation Order remained in place along the banks of the Tule River in city limits. On April 14, 2023, the County transmitted a letter to the California Governor's Office of Emergency Services (Cal OES), requesting continued financial support for the Armory TEP, which the County reported that Cal OES did not approve.

Given the lack of continued financial support by Cal OES, the County notified the City that it would discontinue its support of the Armory TEP at noon on May 5, 2023, and American Red Cross would vacate the facility as well, leaving the City alone to determine the function of the Armory TEP after noon on May 5th. The significant threat of local emergency continued to exist with the estimated over three hundred percent (300%) of normal snow pack in the Sierra Nevada mountains and the potential for a warm storm or heat wave this Spring to again inundate the Tule River, described as a "loaded locomotive at the top of the hill." Given the forecasts of potential widespread flooding damage to west Tulare County and significant portions of Kings County later this Spring and early Summer, Red Cross representatives strongly believe they

will be returning to the Armory TEP and other Tulare County locations (e.g. Porterville Developmental Center) to assist those displaced from homes due to flooding. Until such time that Cal OES makes the determination that emergency conditions again exist in Tulare County, the Council was left to determine if local emergency conditions existed to continue operating the Armory TEP, which expenditures would not be reimbursable given the lack of approval by Cal OES.

Given the continued mandatory evacuation order along the Tule River in city limits and the legal implications of the Martin v. Boise federal 9th Circuit Court of Appeals decision (2018), and the announced departure of the American Red Cross and County support at noon on May 5, 2023, City staff developed an operational plan for the Armory TEP, cognizant of the lack of federal and State reimbursement of costs. As of April 27, 2023, eighteen (18) individuals were receiving shelter services at the Armory TEP, with most individuals only at the facility in the evening. Given the limited daytime TEP population, and daily meal services provided at the nearby Porterville Welcome Center, staff recommended to limit the Armory TEP hours from 7:00 P.M. to 7:00 A.M. daily, providing temporary staffing of two individuals (including a security guard). Temporary staffing had been quoted at \$25 per hour, for a daily expense of \$600 (or \$18,000 per month). At its meeting on May 2, 2023, the Council authorized the continued operation of the Armory TEP for a 12-hour operational period over the evenings, and also directed that the Armory restrooms and shower facilities be used by the individuals at the TEP, which although not ADA-compliant, are not required for non-reimbursable shelter activities while under a Declaration of Local Emergency. The contract for the on-site mobile shower and portable restroom facilities that are ADA-compliant expired on May 11, 2023, which the rental cost was approximately \$18,000 per month. However, the City Attorney recommended maintaining a single ADA-portable restroom at the facility. Beginning at noon on May 5, 2023, the City assumed administrative and financial responsibility for the Armory, which has established operational hours of 8:00 P.M. to 8:00 A.M. and averaged between 10 and 15 individuals each evening.

On May 4, 2023, the City received an updated draft License agreement for the use of the Armory, proposing a 1-year lease for exclusive use by the City effective May 5, 2023, through May 4, 2024. The draft agreement proposes no fee for the use of the facility, but that the City assume responsibility for the facility's utilities. On Monday, May 8th, the last remaining Army personnel left the facility, with the City now having complete exclusive use of the facility.

On March 31, 2023, Governor Newsom issued Executive Order N-6-23 to support Tulare Lake Basin flood response, which streamlines State preparation, response and recovery actions and supports local flood response efforts and assist in preparing communities for the impacts of snowmelt runoff in the months ahead.

On April 3, 2023, President Biden granted a Major Disaster Declaration for the State of California, triggering the release of Federal funds to help individuals

and communities recover from Severe Winter Storms, Straight-line Winds, Flooding, Landslides and Mudslides that occurred February 21, 2023, and continuing. Monterey and Tulare counties were designated in the Major Disaster Declaration for both Individual and Public Assistance, as well as Hazard Mitigation.

At its meeting on April 4, 2023, the Council approved Resolution No. 15-2023, which authorized the appropriation of funds from the Catastrophic/Emergency Reserve Fund for the costs associated with the response to the local emergency including personnel, equipment, services and other necessary expenditures. At its meeting on April 18, 2023, the Council approved two emergency expenditures that exceeded \$5,000 in their acquisition, which included additional Water Rescue Equipment for the Fire Department (\$6,417.70) and the 30-day rental of two mobile shower/restroom units (\$13,151) for the Armory TEP due to the facility's restrooms and showers not being compliant with the Americans with Disabilities Act (ADA). At its meeting on May 2, 2023, the Council approved two additional emergency expenditures that exceeded \$5,000 in their acquisition, which included a trailer-mounted 6" dewatering and sewage pump (\$77,396.67), and local trucking services of riprap material (\$5,436.00), both for the Public Works Department.

RECOMMENDATION: That the City Council:

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

ATTACHMENTS:

1. Declaration of Local Emergency - March 13, 2023
2. Resolution No. 11-2023
3. Rio Vista Avenue Mandatory Evacuation Order - March 16, 2023
4. Tule River Banks Mandatory Evacuation Order - March 19, 2023
5. Governor Newsom Executive Order N-6-23
6. Federal Disaster Declaration Fact Sheet - April 3, 2023
7. City and County Memorandum of Understanding for Shelter Support
8. County of Tulare CalOES Shelter Support Request Letter - April 14, 2023
9. Draft License to Use State Military Property
10. Resolution No. 15-2023
11. Rescue Source & Rescue 3 Invoice: Water Rescue Equipment
12. Royal Restrooms Invoice: Mobile Shower-Restroom Units
13. Rain for Rent Pump Invoice
14. Mike Clark Trucking Invoice
15. Municipal Code Chapter 9 - Civil Defense and Disaster

16. California Government Code 8558

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager



DECLARATION OF LOCAL EMERGENCY

WHEREAS, severe winter storm systems have struck California and in particular, the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River; and

WHEREAS, under the provisions of the City Charter, I find that conditions of extreme peril to the safety of persons and property exist due to these storms; and

WHEREAS, I find that the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Porterville and may require the combined forces of mutual aid and/or unified command to appropriately respond.

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, in accordance with the authority vested in me by the Porterville City Charter, **HEREBY DELCARE A LOCAL EMERGENCY** to exist in the City of Porterville.

IT IS HEREBY ORDERED that the City's Emergency Management Team under the direction of Fire Chief/Incident Commander Bryan Cogburn has the authority to procure any and all resources deemed necessary in this event.

DECLARED, this 13th day of March, 2023.

Martha A. Flores, Mayor

ATTEST:

Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. 11 -2023

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE CONFIRMING THE EXISTENCE
OF A LOCAL EMERGENCY

WHEREAS, Chapter 9 of the Porterville Municipal Code of the City of Porterville provides for the ability to declare the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the City of Porterville caused by severe winter storm systems striking California, and in particular the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River that create or will likely create conditions of extreme peril; and

WHEREAS, Mayor Martha A. Flores in conjunction with City Manager John Lollis did declare the existence of a local emergency within the City of Porterville on the 13th day of March, 2023, which is subject to ratification by the City Council within seven (7) days. A copy of said Declaration is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the declaration of the existence of a local emergency; and

BE IT RESOLVED that said local emergency shall be deemed to continue to exist until termination is proclaimed by the City Council of the City of Porterville, State of California.

PASSED, APPROVED AND ADOPTED this 17th day of March, 2023.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk



By: Patrice Hildreth, Chief Deputy City Clerk



DECLARATION OF LOCAL EMERGENCY

WHEREAS, severe winter storm systems have struck California and in particular, the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River; and

WHEREAS, under the provisions of the City Charter, I find that conditions of extreme peril to the safety of persons and property exist due to these storms; and

WHEREAS, I find that the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Porterville and may require the combined forces of mutual aid and/or unified command to appropriately respond.

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, in accordance with the authority vested in me by the Porterville City Charter, **HEREBY DELCARE A LOCAL EMERGENCY** to exist in the City of Porterville.

IT IS HEREBY ORDERED that the City's Emergency Management Team under the direction of Fire Chief/Incident Commander Bryan Cogburn has the authority to procure any and all resources deemed necessary in this event.

DECLARED, this 13th day of March, 2023.

Martha A. Flores, Mayor

ATTEST:

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 17th day of March, 2023.

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

Council:	FLORES	CARRILLO	WEYHRAUCH	BELTRAN	MEISTER
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					



JOHN D. LOLLIS, City Clerk

By:

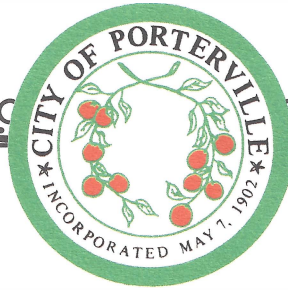
Fernando Gabriel-Moraga, Deputy City Clerk

Police Department

350 North "D" Street
Porterville, CA 93257
(559) 782-7400/FAX (559) 784-1070
www.PortervillePolice.com

Jake Castellow

Chief of Police



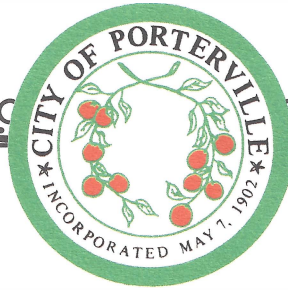
Porterville Police Department Mission Statement
The members of the Porterville Police Department are committed to the safety and security of the community while providing quality service with excellence, honesty and integrity.

Police Department

350 North "D" Street
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Jake Castellow

Chief of Police



Porterville Police Department Mission Statement
The members of the Porterville Police Department are committed to the safety and security of the community while providing quality service with excellence, honesty and integrity.

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-6-23

WHEREAS on March 1, 2023, March 8, 2023, March 12, 2023, March 14, 2023, and March 28, 2023, I proclaimed a State of Emergency to exist in 47 counties, cumulatively, as a result of a series of ongoing winter storms that initially struck California beginning in late February and continue to significantly impact the counties identified in my Proclamations; and

WHEREAS the State has experienced over a dozen atmospheric rivers since December 2022, resulting in compounding and cumulative impacts across California, including what are expected to be record amounts of snow in the Sierra Nevada, in particular in the southern Sierra, and current and forecasted precipitation are expected to add to historic snowpack levels already composed of several million acre-feet of snow water content; and

WHEREAS reservoirs into which the Sierra snowpack runoff would flow are already impacted by runoff, which is expected to greatly exceed available storage capacity in the reservoirs in and around the Tulare Lake Basin and the San Joaquin River Basin, and much of the ground in the area has reached saturation due to the series of ongoing winter storms; and

WHEREAS the Tulare Lake Basin is the terminal point for the Kings, Kaweah, Tule, and Kern Rivers, and several smaller streams, meaning that water from additional expected rains and Sierra snowpack runoff that cannot be stored in reservoirs or absorbed into the ground will flow into the basin; and

WHEREAS recent storms have already caused flooding in the Tulare Lake Basin, leading to emergency rescues and evacuation orders in Allensworth, Alpaugh, and other communities in Tulare and Kings Counties, and leading to dozens of levee breaks and local agencies directing strategic cuts to canals and levees to prevent further flooding of communities; and

WHEREAS runoff from the snowpack caused by the winter storms could result in flood conditions in the Tulare Lake Basin resembling those last experienced in the historic floods of 1969 and 1983, following historic snowpacks in those years; and

WHEREAS local flood control districts and other local governments generally have flood control responsibility in the Tulare Lake Basin, but state agencies such as the California Department of Forestry and Fire Protection (CAL FIRE), the California Department of Water Resources, and the Governor's Office of Emergency Services are actively engaged in supporting this local effort, and state agencies will continue to provide technical advice and other resources and support as needed, with a particular priority on protecting the lives and health of local communities; and

WHEREAS stretches of the San Joaquin River have been or are at flood stage this spring, river stages are expected to stay high throughout the spring as snowpack melts, and multiple levee repairs are underway on the lower San Joaquin River; and

WHEREAS the Tulare Lake Basin is hydrologically connected to the San Joaquin River Basin and that connection has the potential to exacerbate the flood risk in the San Joaquin River Basin, and so further emergency response efforts may become necessary in the San Joaquin River Basin as well; and

WHEREAS heavy accumulation of snowfall on the roof of Bear Valley Elementary School, located in Alpine County, currently renders instructional space unsafe for use; and

WHEREAS frequent flooding and flood evacuation orders have resulted in school closures and low student attendance in Pajaro Middle School, Hall District Elementary School and Ohlone Elementary, located in Pajaro Valley Unified School District in Santa Cruz County; and

WHEREAS it is critical that displaced students are back in school facilities as quickly as possible to ensure continuity in education; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to respond to and mitigate the effects of these storms; and

WHEREAS on March 9, 2023, I requested a Presidential Emergency Declaration related to these late winter storms, which was expeditiously approved by President Joseph R. Biden, Jr.; and

WHEREAS on March 15, 2023, I requested the addition of 9 counties to the existing Presidential Emergency Declaration related to these late winter storms, which was expeditiously approved by the President; and

WHEREAS on March 28, 2023, I also requested the President issue a Major Disaster Declaration related to these late winter storms for counties that met the validated damage threshold; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay the mitigation of the effects of these ongoing winter storms.

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

IT IS HEREBY ORDERED THAT:

1. All provisions contained in the above-referenced Proclamations of a State of Emergency shall remain in full force and effect.
2. To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding in the Tulare Lake Basin, Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter, are

suspended for activities that meet all of the requirements in Paragraph 3.

3. The suspension created by Paragraph 2 shall apply to floodwater diversion, debris removal, and levee repair and breach in the Tulare Lake Basin, on the condition that the actions cease when the flood conditions have abated to the point there is no longer flooding outside of defined streambeds and levees. Additionally, the suspension created by Paragraph 2 shall apply to floodwater diversion only if all of the following additional conditions are met:
 - a. The diversion of floodwater from the Tulare Lake Basin or rivers or streams flooding the Tulare Lake Basin must occur between March 31, 2023, and August 1, 2023, for flood management purposes.
 - b. For diversions directly from rivers or streams, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.
 - c. For diversion of floodwaters in the Tulare Lake Basin (that is, waters no longer contained within a defined streambed or levee), a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that areas from which the floodwaters are diverted are either at imminent risk of flooding or already flooded, with potential or existing inundation of land, roads, or structures.
 - d. Any water diverted is not diverted to and will not be applied to any area that has not been in active irrigated agricultural cultivation within the past three years, including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purposes of groundwater recharge or managed wetlands.
4. In addition to the mandatory conditions set forth in Paragraph 3, any person conducting planned levee breaches or controlled inundation to prevent further catastrophic flooding pursuant to the suspension created by Paragraph 2 should take care, wherever feasible, to protect above-ground infrastructure and drinking water and wastewater infrastructure such as drinking water well field sites, wastewater discharge ponds, and other water resources that are necessary for the protection of human health and the recovery of impacted communities.
5. For purposes of conducting emergency flood preparation and response activities, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Secretary of the Natural Resources Agency concurs that local action is required, and (c) permits necessary to carry out actions under (a) and (b), Public

Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent necessary to address flood impacts in the Tulare Lake Basin.

6. To support adequate state staffing for all state agencies and departments with an assigned response and/or recovery role related to flooding in the Tulare Lake Basin, consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. All other restrictions must be adhered to for retired annuitants. The Director of the California Department of Human Resources must be notified of any individual employed in state government pursuant to these suspensions. The suspension of statutes identified in this Paragraph shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the flooding in the Tulare Lake Basin. Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.
7. The limitation for the period of employment for State Personnel Board emergency appointments, as provided in Government Code section 19888.1, is suspended for positions required for emergency response and/or recovery operations related to flooding in the Tulare Lake Basin. The requirements and period of employment for such appointments will be determined by the Office of Emergency Services but shall not extend beyond the termination date of the State of Emergency.
8. To the extent the Alpine County Office of Education and Alpine County Unified School District are required to use temporary facilities such as the Alpine County Public Library due to extraordinary snowpack on the roof of Bear Valley Elementary School, rendering instructional space unsafe, the requirements of Education Code sections 17280, et seq., 17365, et seq., and Government Code sections 4453 and 14963 are suspended with respect to those temporary facilities. The requirements of the California Building Code (codified in Title 24 of the California Code of Regulations), as adopted and enforced by the local building and fire agencies with jurisdiction over the area, shall apply to these temporary facilities.
9. To the extent the Alpine County Office of Education and Alpine County Unified School District are required to temporarily use buildings, as defined in the California Building Code (California Code of Regulations, Title 24, Part 2, Chapter 2, section 202), such as the Alpine County Public Library due to extraordinary snowpack on the roof of the Bear Valley Elementary School, rendering instructional space unsafe, local planning and zoning regulations shall be suspended to allow immediate occupancy of such buildings for use as public school facilities. In addition, the requirements of the California Building Code, as adopted and enforced by the local building and fire agencies with jurisdiction over the area, shall apply, except that the requirements

relating to Change of Use or Occupancy Classification in the California Building Code (California Code of Regulations, Title 24, Part 2, Chapter 1, section 111) shall not trigger immediate code upgrades, and a Certificate of Occupancy shall not be withheld for such immediate and temporary use of the facilities as a public school, as long as such facilities met building code requirements at the time of their construction, are accessible to individuals with disabilities, and are judged safe for use by the local building official.

10. Education Code section 60641 (a) requiring that all pupils be administered academic assessments in mathematics, English language arts, and science, as provided for in Education Code section 60640, is suspended for the 2022-2023 school year for Pajaro Middle School, Hall District Elementary School and Ohlone Elementary School of the Pajaro Valley Unified School District, if a federal waiver is approved by the United States Department of Education.

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

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

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 31st day
of March 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

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



FEMA

Congressional Affairs Division
202-646-4500

STATE OF CALIFORNIA

FEDERAL DISASTER DECLARATION FACT SHEET

APRIL 3, 2023

Today, April 3, 2023, President Joseph R. Biden Jr., granted a Major Disaster Declaration for the State of California triggering the release of Federal funds to help individuals and communities recover from Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides that occurred February 21, 2023, and continuing. Details of the disaster declaration and assistance programs are as follows:

Declaration Number:	FEMA-4699-DR
Incident:	Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides
Incident Period:	February 21, 2023, and continuing
Federal Coordinating Officer:	Andrew F. Grant National FCO Program
Individual Assistance (IA):	(Assistance to individuals and households):
IA-Designated Counties:	Kern, Mariposa, Monterey, San Benito, Santa Cruz, Tulare, and Tuolumne Counties.
Public Assistance (PA):	(Assistance for emergency work and the repair or replacement of disaster-damaged facilities):
PA-Designated Counties:	Calaveras, Los Angeles, Monterey, and Tulare Counties.
Hazard Mitigation (HM):	(Assistance for actions taken to prevent or reduce long term risk to life and property from natural hazards):

HM-Designated Areas:

All areas in the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

OTHER:

Additional designations may be made at a later date if requested by the state and warranted by the results of further damage assessments.

###

**MEMORANDUM OF UNDERSTANDING FOR SHELTER SUPPORT
BETWEEN COUNTY OF TULARE AND CITY OF PORTERVILLE**

This Agreement, is effective as of April 11, 2023, (the "Agreement"), and is between The City of Porterville ("CITY"), a California municipal corporation, and the COUNTY OF TULARE, a political subdivision of the State of California ("COUNTY"), who agree as follows:

WHEREAS, CITY has entered into an arrangement with the California National Guard for use of the Armory space, with address of 29 N Plano St., Porterville, CA 93257 (the "Premises") for emergency shelter purposes; and

WHEREAS, COUNTY, along with its Health and Human Services Agency, desires to provide disaster relief support, including logistical support, shelter staffing, and meal support, solely for the purpose of the Premises being used as an emergency shelter in response to the March 2023 atmospheric river storms; and

WHEREAS, in order to provide said support, COUNTY is fully dependent upon the California Department of Social Services ("CDSS") fulfilling COUNTY'S request for logistical and funding support, of which COUNTY, upon receipt, will convey to CITY; and

WHEREAS, in the event that CDSS is unable to provide support, and/or CDSS or the American Red Cross is unable to provide operational support, COUNTY is unable to continue services alone and shall immediately terminate this Agreement; and

WHEREAS, COUNTY seeks to clarify the scope of services to be provided and set reasonable limits on the term of those services; and

WHEREAS, COUNTY agrees to provide, and CITY agrees to receive said services; and

WHEREAS, CITY opened the shelter on the Premises on April 11, 2023, and COUNTY began providing services as of April 11, 2023, and now seek to memorialize this exchange in writing;

NOW, THEREFORE, in consideration of the mutual promises and representations set forth herein, the parties agree as follows:

1. **SERVICES.** COUNTY agrees to provide at its own expense, and CITY agrees to receive services at the Premises pursuant to this Agreement. COUNTY shall provide 24 hour, or agreed operational period staffing at the Premises, in which COUNTY will provide logistical support, shelter staffing, and meal support in conjunction with the California Department of Social Services and/or the American Red Cross. COUNTY will additionally provide social assistance via case management services Monday through Friday, 8 AM to 5 PM. COUNTY shall also provide 24 hour security at the site (Collectively, the "Services"). The parties may agree in writing to a shorter operational period.

CITY shall provide animal care and shelter for residents of the Premises, including kennels and food. CITY shall be providing laundry, bathroom, and shower services for the residents of the Premises. Except for as otherwise specified in Section 8.c., CITY shall provide janitorial services for the Premises, which shall be regularly available daily, and shall be available upon an immediate needs basis. CITY shall keep on-call maintenance technician that is able to respond to immediate maintenance needs.

Services will be performed to the satisfaction of COUNTY for purposes of reimbursement of COUNTY by the State or Federal government.

2. **TERM.** The Services contemplated in Section 1 shall be from April 11, 2023, to May 5, 2023.

The County's provision of staffing and support services shall end at 12:00 noon, and the County's provision of security services shall end at 5:00 p.m., on Friday, May 5, 2023.

Additionally, the Parties agree that this Agreement will terminate pursuant to Section 19 of this Agreement upon the exit of the California Department of Social Services' support of staffing of the Services.

3. **CONSIDERATION.** CITY and COUNTY agree that the services provided to the public are adequate and good consideration for this Agreement, and no monetary compensation is required for this Agreement.

4. **USE.** Upon commencement of the term, COUNTY staff shall be entitled entry onto the Premises to provide the Services.

5. **AGREEMENT TO USE FACILITIES.** The use of the Premises is defined as follows:

- a. Use of the Premises 24 hours a day for sheltering evacuees and animals; and
- b. Any other use to which the parties mutually agree.

6. **ACCEPTANCE.** On the date that the COUNTY begins providing services at the Premises, the Premises shall be in good condition. COUNTY commencing services on the Premises on the effective date shall constitute COUNTY's acknowledgment that, to the best of their knowledge, the Premises is in good condition.

7. **USE.** COUNTY shall use the Premises and shall not use it in any manner that will constitute waste or nuisance.

8. **MAINTENANCE.**

- a. CITY will provide, at CITY's expense, all ongoing maintenance, preventative maintenance, repair, and upkeep of the Premises, including, but not limited to, the parking areas, sidewalks, grounds, building and improvements, and equipment and fixtures attached thereto.

b. CITY will be responsible for complying with all codes or laws requiring alterations, maintenance or restoration of the Premises and parking areas during the term of the AGREEMENT, at no cost to COUNTY, including all ADA Standards for Accessible Design requirements and codes requiring fire extinguishers or other fire suppression equipment and related signage.

c. CITY will be responsible for cleaning the restrooms. COUNTY will be responsible for any cleaning or sanitization of rooms used, waiting rooms, and door handles.

d. In case of emergency the parties will take immediate steps to protect persons and property, consistent with their respective roles and responsibilities under this AGREEMENT. The CITY maintains responsibility to provide COUNTY with a facility that is fit for the purpose and intent of the AGREEMENT. If necessary repairs are brought to the CITY's attention by COUNTY, CITY will make repairs within the next ten (10) days. If the CITY does not take the necessary steps, COUNTY will have the right to repair and to be reimbursed by CITY.

9. **ALTERATIONS.** COUNTY shall not make any structural or exterior alterations to the Premises without CITY's or the California National Guard's consent; however, COUNTY shall have the right without cost to the CITY to make, with CITY's prior written consent, nonstructural alterations to the interior of the Premises that COUNTY requires in order to conduct its operations on the Premises, so long as those alterations are not prohibited by the terms and conditions of the CITY'S License Agreement with the California Military Department.

Upon termination of the AGREEMENT, if COUNTY is not then in default of any of the provisions of this AGREEMENT, COUNTY shall have the right to remove from the Premises immediately before the termination of the AGREEMENT, or within ten (10) days thereafter, any alterations COUNTY has made to the Premises, as long as the removal will not cause any structural

damage to the Premises, and COUNTY at its cost promptly restores any damage caused by the removal.

10. **UTILITIES.** CITY, in conjunction with the California National Guard, shall make all arrangements for, and pay for, all utilities and services furnished or to be used by COUNTY, including, without limitation, gas, electricity, water, sewer, trash, and for all connection charges, therefore. CITY and the California National Guard shall provide all fire extinguishers and related signs.

11. **INDEMNITY.** To the fullest extent permitted by law, CITY will hold harmless, defend and indemnify COUNTY and its officers, agents, volunteers, contractors, and employees from and against any liability, claims, actions, costs, damages, losses and expenses for injury, including without limitation, death of any person or damage to any property, including damage to animals; enforcement actions under California Prevailing Wage laws with respect to work done by CITY, or under other applicable statute or ordinance; or resulting from CITY's or CITY's agents', employees', contractors', or invitees' negligent or intentionally wrongful acts or omissions with respect to the Premises. CITY's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred during the term of this AGREEMENT, or any renewal or holdover period. This indemnification provision will survive the termination of this AGREEMENT.

To the fullest extent permitted by law, COUNTY will hold harmless, defend and indemnify CITY and its officers, agents, volunteers, contractors, and employees from and against any liability, claims, actions, costs, damages, losses and expenses for injury, including without limitation, death of any person or damage to any property, including damage to animals; enforcement actions under California Prevailing Wage laws with respect to work done by COUNTY, or under other applicable statute or ordinance; or resulting from COUNTY's or COUNTY's agents', employees', contractors', or invitees' negligent or intentionally wrongful acts or omissions with

respect to the Premises. COUNTY's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred during the term of this AGREEMENT, or any renewal or holdover period. This indemnification provision will survive the termination of this AGREEMENT.

12. **INSURANCE.** CITY acknowledges and agrees that COUNTY is a self-insured entity and waives any requirement that COUNTY procure and/or maintain insurance of any kind, including liability and/or fire/extended coverage insurance. COUNTY acknowledges and agrees that CITY is a self-insured entity and waives any requirement that CITY procure and/or maintain insurance of any kind, including liability and/or fire/extended coverage insurance.

13. **DESTRUCTION.** In the event the Premises, or the building in which the Premises is located, is totally or partially destroyed by fire, earthquake, flood, or other casualty so as to render such property unfit for occupancy, in whole or in part, and that if it should reasonably appear that CITY cannot or will not restore or repair the Premises within ten (10) days from the date of such damage, either party shall be entitled to terminate the Agreement by giving the other party notice in writing of intention to so terminate ten (5) days before the proposed date of termination.

14. **CONDEMNATION.** If, during the AGREEMENT Term, there is any taking by condemnation of all or part of the building, other improvements, or land of which the Premises are a part, or any interest in the AGREEMENT, the rights and obligations of the parties shall be determined as follows:

a. If the Premises are totally taken by condemnation, the AGREEMENT shall terminate on the date of the taking;

b. If any portion of the Premises is taken by condemnation the AGREEMENT shall remain in effect, except that COUNTY may elect to terminate the AGREEMENT by giving notice of same within five (5) days of the date of the taking.

15. **ASSIGNMENT.** COUNTY shall not assign or encumber its interest in the AGREEMENT, all or any part of the Premises, without the consent of CITY, which consent may be withheld at CITY's absolute discretion.

16. **SIGNS.** COUNTY may not install, or permit any other person to install, any sign, awning, canopy, marquee or other advertising on any exterior wall, door, or window on the Premises.

17. **PARTIES'S ENTRY ON PREMISES.** The parties and their authorized representatives shall have the right to enter the Premises at all reasonable times.

18. **REMOVAL OF PERSONAL PROPERTY.** On expiration or other termination of the AGREEMENT, COUNTY shall remove all its personal property and shall perform all restoration made necessary by the removal of any alterations, fixtures, or signs.

19. **TERMINATION.** Either party may terminate this Agreement for cause upon fifteen (15) days' prior written notice to the other party. For purposes of this section, "cause" shall be defined as the failure of either party to remedy any material breach of the AGREEMENT within three (3) days' written notice of the breach. No material breach will be found for issues that this contract already provides a remedy for, so long as those remedies are timely undertaken.

COUNTY, may immediately terminate this Agreement upon written notice should the expenses associated with the Services be deemed to be non-reimbursable by the Federal Government or California State Government, as COUNTY will not be able to fund the scope of the Services considered in this Agreement without Federal or State reimbursement. Written notice of such determination of non-reimbursability shall be communicated by COUNTY to CITY as soon as possible.

COUNTY may immediately terminate this Agreement upon written notice should operational support from CDSS or the American Red Cross ceases, as COUNTY will not be able to provide such support on its own. This written notice shall be communicated by COUNTY to CITY as soon as possible.

COUNTY, as required by the Federal Emergency Management Agency ("FEMA") contract provisions, may terminate this Agreement without cause and shall provide CITY with seven (7) days written notice of the termination of this Agreement without cause.

20. **SUCCESSORS.** This Agreement shall be binding on, and inure to, the benefit of the parties, their successors and assigns, except as otherwise limited by this Agreement.

21. **NOTICE.** Any notice, demand, request, consent, approval or other communication required or permitted under this Agreement shall be in writing and must be either delivered in person or sent by certified mail, postage prepaid, to the follow addresses:

COUNTY: Board of Supervisors
County of Tulare Administration Building
2800 W. Burrel
Visalia, CA 93291
w/Copy to: Tulare County Office of Emergency Services
Attn: Andrew Lockman
5957 S. Mooney Blvd.
Visalia, CA 93277

CITY: John Lollis
291 N Main St,
Porterville, CA 93257

Notice shall be deemed communicated four (4) days from the time of mailing as provided in this section.

22. **ACCESS TO RECORDS.** The following access to records requirements apply to this AGREEMENT: a. The parties agree to provide each other, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to

any books, documents, papers, and records of the CITY and COUNTY which are directly pertinent to this AGREEMENT for the purposes of making audits, examinations, excerpts, and transcriptions.

b. The CITY agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

c. The CITY agrees to provide the FEMA Administrator, or their authorized representatives, access to the Premises or other sites pertaining the scope of this AGREEMENT.

d. In compliance with the Disaster Recovery Act of 2018, the COUNTY and the CITY acknowledge and agree that no language in this AGREEMENT is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

23. **DEBARMENT AND SUSPENSION.** CITY certifies, by entering into this AGREEMENT, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this AGREEMENT by any federal agency or by any department, agency or political subdivision of the State of California. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of CITY. The CITY also further certifies that it has verified the suspension and debarment status for all sub-contractors receiving funds under this AGREEMENT and is solely responsible for any paybacks and or penalties that might arise from non-compliance.

24. **CHANGES.** CITY and COUNTY, together the "Parties" agree that any changes made to this AGREEMENT must be formal written Agreement in the form of a Change Order to this AGREEMENT. Any Change Order must be submitted by the requesting party by at least seven

(7) days written notice to the other Party. Both the CITY and COUNTY must agree, in writing, to any changes to this AGREEMENT.

25. DEPARTMENT OF HOMELAND SECURITY SEALS/LOGOS. The CITY shall not use the Department of Homeland Security (“DHS”) seal(s), logos, crests, or reproduction of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

26. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS. CITY acknowledges that FEMA financial assistance will be used to fund all or a portion of the AGREEMENT. CITY shall comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

27. NO OBLIGATION BY FEDERAL GOVERNMENT. The Federal Government is not a party to this AGREEMENT and is not subject to any obligation or liabilities to the COUNTY, CITY, or any other party pertaining to any matter resulting from this AGREEMENT.

28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. CITY acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statement) applies to the CITY’s actions pertaining to this AGREEMENT.

29. DISASTER SERVICE WORKERS. Emergency management personnel provided under this AGREEMENT are public employees, who during disaster situations, are declared under California Government Code section 3100, to be Disaster Service Workers. Work-related injuries will be handled by providing agency/jurisdiction under Worker’s Compensation. Emergency management personnel must immediately report any injury suffered while deployed, to their assigned supervisor and home agency. Further, emergency management personnel provided by the CITY under this Agreement are Disaster Service Workers and employees of the CITY, and as such are provided the immunities, protections, and benefits of Disaster Service Workers, as provided in the California Emergency Services Act and other applicable law. Each

party shall defend, indemnify, and hold the other party, its officials, officers, employees, agents, and volunteers, harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damage arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officials, officers, employees, agents, or volunteers.

30. **WAIVER.** The failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

31. **INTEGRATION.** This instrument contains all the Agreements of the parties relating to the Premises and cannot be modified or amended except by a subsequent Agreement in writing.

32. **NO THIRD-PARTY BENEFICIARIES.** Unless specifically set forth, the parties to this Agreement do not intend to provide any third-party benefit or enforceable legal or equitable right or remedy.

33. **GOVERNING LAW.** This Agreement will be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles.

34. **HEADINGS.** Paragraph headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

35. **INTERPRETATION.** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code Section 1654 shall not apply to address and interpret any uncertainty.

36. **CONFLICT WITH LAWS OR REGULATIONS; SEVERABILITY.** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement will continue in full force and effect.

37. **AUTHORITY.** Each person executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind, and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right to enter into this Agreement and perform all of its obligations hereunder.

38. **COUNTERPARTS.** This Parties to this AGREEMENT may sign this AGREEMENT in counterparts, each of which is an original and all of which taken together form one single document. The counterparts of this AGREEMENT may be executed and delivered by facsimile or other electronic signature (including portable document format) by the Parties and the receiving Party may rely on the receipt of such document so executed and delivered

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electronically or by facsimile as if the original had been received.

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

CITY OF PORTERVILLE

Date: _____

By: _____

John Lollis

City Manager

Approved as to form:

City Attorney

By:  _____

**COUNTY
COUNTY OF TULARE**


By: _____

Jason T. Britt

Tulare County Emergency Services Director

Approved as to form:

County Counsel

By:  _____

Matter No. 2023359



Office of Emergency Services

5957 South Mooney Boulevard, Visalia, California 93277
(559) 624-7495 Telephone (559) 737-4692 Facsimile

April 14, 2023

Ms. Nancy Ward
Director, Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Dear Director Ward,

Tulare County appreciates the Office of Emergency Services' tireless work to support the response to and recovery from DR-4699 in our County and the surrounding region. Specifically, your negotiation of an ongoing incident period and the expeditious approval of individual assistance programs have been particularly valuable to the affected communities as we continue to recover from storm damages, repair distressed and weakened waterways, and prepare for the impending historic snowmelt runoff.

As current snow moisture content in local watersheds is estimated at over 300% of the historical average, total inflows to local reservoirs through April and July are expected to exceed three times the reservoir capacity. Local reservoir and waterway operators continue to aggressively release water at or near full capacity to make space for the anticipated inflows and prevent a return to spillway flows, while balancing needs of downstream operators to conduct emergency repairs. As a result, a number of homes, agricultural properties, and public spaces remain inundated with floodwater, and more homes may be affected because of the new snowmelt conditions. Specifically, we anticipate similar or worse conditions as a result of the snowmelt.

Tulare County is concerned that current sheltering for individuals affected by inundation and/or evacuation orders, including previously displaced individuals who remain under an evacuation order, may be limited in duration, especially during the current intervening period between storm and snowmelt-induced flooding incidents within the disaster.

Tulare County has entered into an agreement with the City of Porterville to maintain the last remaining emergency evacuation shelter site in the County. The California Department of Social Services and Volunteer Emergency Services Team have pledged support to provide staff and services for only two weeks at this shelter. Forty Tulare County residents who have been displaced due to flood activities are staying at this site. Because the support from CDSS and VEST is limited, the County is concerned that it may not be able to continually fund and staff the ongoing shelter projects. Our concern is the ongoing financial and logistical burden to the County and the incorporated cities therein.

As we are sure that you are aware, emergency protective measures, flood control activities, and damage assessments are being conducted because of the flood conditions in Tulare County. These efforts go hand-in-hand with ensuring that County residents are safe,



Office of Emergency Services

5957 South Mooney Boulevard, Visalia, California 93277
(559) 624-7495 Telephone (559) 737-4692 Facsimile

fed, and warm. The State's cooperation in keeping funding and support from the Department of Social Services and VEST beyond the initial two weeks available for emergency sheltering of Tulare County Residents is vital. Your support in ensuring ongoing funding and logistical support for these critical emergency protective measures is greatly appreciated.

Sincerely,

A handwritten signature in black ink, reading "Andrew Lockman".

Andrew Lockman
Office of Emergency Services Manager



LICENSE NUMBER	1221
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LICENSE TO USE STATE MILITARY PROPERTY

BETWEEN

CALIFORNIA MILITARY DEPARTMENT

AND

The City of Porterville

FOR

USE OF READINESS CENTER IMPROVEMENTS AND GROUNDS

This AGREEMENT, dated for reference the 10th day of April 2023, by and between the California Military Department (CMD), hereinafter called STATE, and the City of Porterville, 291 North Main Street, Porterville, CA 93257, hereinafter called LICENSEE, without distinction as to number or gender, and effective upon execution by STATE. STATE and LICENSEE are sometimes referred to individually as a "party" or collectively as the "parties".

RECITALS

WHEREAS, the STATE has under its jurisdiction, certain real property known as the Porterville armory, located at 29 N. Plano St. Porterville, CA 93257, hereinafter called PREMISES, identified in **Exhibit "B"**, consisting of one (1) page and attached hereto and incorporated herein by this reference.; and,

WHEREAS, it is essential that STATE have a secure facility and surrounding grounds; and,

WHEREAS, PREMISES may be made available to meet the needs of the local civil authority when not required to meet immediate operational requirements;

NOW THEREFORE, STATE and LICENSEE agree as follows:

WITNESSETH

I.

GENERAL PROVISIONS

1. AGREEMENT is for non-exclusive weekday or weekend use throughout the license term.
2. Upon declaration of emergency by the STATE or federal government, STATE reserves the right to reoccupy PREMISES, including all parking areas, with twenty-four (24) hours written or electronic (voice or email) notice to LICENSEE at the notification address/number below in Section III; "Notification".

3. LICENSEE shall comply with all applicable statutes, laws, ordinances and rules or regulations adopted by the Federal, State or any City, City and County, County or other body politic pertaining to use of said premises or any provisions of the License.
4. LICENSEE shall comply with such reasonable rules and regulations as may be prescribed by STATE for the reasonable use and occupation of State Facilities.
5. LICENSEE understands and agrees the California Legislature may impose additional restrictions, limitations or conditions affecting AGREEMENT provisions or terms; however, any such changes become effective no sooner than 30 days after the legislature has acted.
6. This agreement shall not be assigned or sublet or otherwise encumbered, in whole or in part, without STATE'S prior written consent.
7. STATE infrastructure shall supply PREMISES with utilities, but LICENSEE will transfer utility accounts into its name for payment: electric, sewer, water, refuse collection.
8. LICENSEE shall have use of the offices, storage areas, drill floor, latrines, showers, parking areas for placement of storage containers (if required), and kitchen counters solely for food preparation or distribution (no oven or stove top use). All food will be stored and surfaces cleaned on a daily basis when shelter operations are underway.
9. STATE is not responsible for losses or damage to personal property, equipment or materials of LICENSEE, its employees, agents or clients. LICENSEE shall report to STATE all losses immediately upon discovery.
10. LICENSEE shall not drive any nails, tacks, pins or other objects into the walls, ceilings, partitions, windows, woodwork, or any other part of PREMISES, nor in any manner move or change any fixture, nor make any alterations to PREMISES without STATE'S prior written consent.
11. Upon completion of use, LICENSEE shall remove all decorations, display, signs, and equipment on PREMISES.
12. Upon license expiration, LICENSEE will surrender PREMISES to STATE with appurtenances and fixtures in good order, condition, and repair, reasonable use and wear thereof, or Acts of God excepted.
13. LICENSEE shall not permit any alcoholic beverage to be offered for sale, stored, given away or otherwise disposed or consumed on any part of PREMISES, nor shall LICENSEE permit any use of tobacco products on any part of PREMISES or within twenty (20) feet of entrances, doorways or opening windows, except in a sufficiently distanced controlled area under LICENSEE supervision.
14. LICENSEE acknowledges PREMISES may not be fully ADA compliant and agrees to implement or improve, at its sole cost and expense, those necessary compliance measures required for the duration of its use. Furthermore, LICENSEE agrees to provide any and all required temporary emergency lighting required by State, County or City laws or ordinances.

II.

AUTHORIZED ACTIVITIES

1. In order to provide a variety of health, medical or other services to homeless citizens, LICENSEE may provide on-site program management through either LICENSEE employees, agents, volunteers or contracted services.
2. The armory facility will be available twenty-four (24) hours each day unless otherwise amended in writing by the STATE.
3. LICENSEE is solely responsible for protecting employees, patrons, agents, clients, or invitees from acts of third parties, and agrees to notify STATE and appropriate law enforcement agencies as required.
4. LICENSEE agrees to maintain PREMISES in a clean and habitable condition, which includes exterior landscape maintenance and removal of all litter, trash, cans, bottles, etc. from the site not less than once per day.
5. Any damage to PREMISES will be inspected by STATE representatives (CMD Area Coordinator) and LICENSEE to determine the character and extent of damage (with photographs). Repairs should be completed within twenty-four (24) hours if an emergency or seventy-two (72) hours if urgent.
6. The STATE Area Coordinator will contract for necessary repair or restoration services using appropriate state or federal guidance, while coordinating and collaborating closely with LICENSEE. LICENSEE may not undertake repairs or restoration using its own forces or contract services without the prior written consent of STATE'S Area Coordinator.
7. Within thirty (30) days of being presented a demand (invoice) for payment, LICENSEE shall make STATE whole for the cost of repairing or restoring any improvement or utility damaged as a result of PREMISES use.
8. If significant plumbing issues occur due to continued actions of clients, LICENSEE will provide portable latrines, at its sole cost and expense, for the duration of the contract.
9. LICENSEE shall take all necessary steps to ensure clients do not constitute a nuisance in the immediate vicinity of the facility during hours of operation. If at any time the STATE is dissatisfied with the LICENSEE efforts, the LICENSEE and STATE shall meet to explore means and methods of compliance.
10. LICENSEE shall supply consumable sanitary items and paper products, which include, but not limited to: cleaning/sanitizing supplies and equipment, liquid soap, paper towels, and toilet paper. If requested (necessary), the County Health Department shall provide periodic health screenings and consultation on issues pertaining to sanitation
11. Pets of clients occupying PREMISES or participating in provided services are prohibited inside the PREMISES, with the exception of those meeting the definition of "*service animal*" in Section XV below.
12. LICENSEE shall ensure clients provide valid vehicle registration and insurance BEFORE parking their vehicle in PREMISES parking area.
13. Vehicles parked on PREMISES without appropriate approval shall be towed away by STATE's order and at LICENSEE's risk and expense.

III.

NOTIFICATION

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00 a.m. and 5:00 p.m. Pacific Standard Time. so long as such day is not a State or Federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

To LICENSEE:

City of Porterville
Attn: City Manager
291 North Main Street
Porterville, CA 93257
(559) 782-7466

To STATE:

California Military Department
9800 Goethe Road, Box 18
Sacramento, CA 95826
(916) 854-3788

PROGRAM MANAGER:

SSG Monica Estrada
(916) 541-8160

Notice of change of address or telephone number shall be given by written notice in the manner described in this section. LICENSEE is obligated to notice State offices listed above and the failure to provide notice to do so shall constitute a lack of notice. Nothing contained herein shall preclude the giving of any such notice by personal service.

IV.

INSURANCE REQUIREMENTS

LICENSEE is a public entity, which is self-insured and will be responsible for any damage caused to PREMISES. Additionally, LICENSEE shall indemnify STATE against any injuries caused by use of PREMISES. LICENSEE has furnished the necessary Certificate of Self-Insurance, **Exhibit "D"** attached hereto and incorporated herein by this reference, demonstrating the required insurance coverage will be in effect during the complete term of AGREEMENT, and shall include, but not be limited to:

- Combined single limit liability of \$2,000,000, or
- Special event coverage with a limit of \$2,000,000, and
- A statement naming the United States, State of California, its officers, agents, employees, and servants as additional insured, but only with respect to the activities of the named insured.

V.

HOLD HARMLESS INDEMNIFICATION

The PREMISES are provided in "AS-IS" and "WITH ALL FAULTS" condition, and STATE and its employees, representatives and agents disclaim all warranties, expressed or implied, regarding the PREMISES, including, but not limited to, all implied warranties of merchantability or fitness for a particular purpose or compliance with Applicable Law. LICENSEES acknowledges and agrees that STATE and its employees, representatives and agents have made no representations or warranties for the PREMISES, including, without limitation, any representations or warranties regarding, (a) the condition or repair of the PREMISES, (b) whether such PREMISES are sufficient for the purposes of LICENSEE, or (c) whether the PREMISES comply with Applicable Laws (as defined below), including without limitation the Americans with Disabilities Act (ADA) or other accessibility laws, (d) whether there are any facts or conditions affecting the PREMISES that might, individually or in the aggregate, interfere with the use or occupancy of the PREMISES or any portion thereof by LICENSEE.

The use of the PREMISES by LICENSEE shall be conclusive evidence that LICENSEE accepts the same "AS IS and WITH ALL FAULTS" and that the PREMISES are suited for the use intended by LICENSEE and are in good and satisfactory condition at the time such possession was taken. LICENSEE represents and warrants to STATE that (a) its sole intended use of the PREMISES is for temporary sheltering (the "Permitted Use") and (b) prior to using the PREMISES it has made such investigations as it deems appropriate with respect to the suitability of the PREMISES for its intended use and has determined that the PREMISES are suitable for such intended use.

LICENSEE shall comply with all applicable statutes, laws, ordinances and rules and regulations adopted by the Federal, State or any City, City and County, County or other body politic, including without limitation all building codes, the ADA or other accessibility laws ("Applicable Laws") and which pertains to use of the PREMISES or any provisions of the License, and will indemnify, defend and hold STATE free and harmless from and against any violations thereof and any and all liabilities, suits, causes of action, judgments, demands and claims for damages, including all reasonable costs of any litigation and attorney's fees and expenses, arising out or by reason of any such violation.

LICENSEE shall indemnify, defend and hold STATE its employees, representatives and agents free and harmless from and against any and all suits, causes of action, demands, proceedings, claims, damages, judgments, obligations liabilities, liens, fines, costs, and expenses (including, but not limited to, attorneys' fees and costs) (collectively "Losses") which arise from or are related to (a) use or occupancy of the PREMISES by LICENSEE or its Representatives, including, but not limited to, damage to property of any kind whatsoever and to whomsoever belonging, including LICENSEE, from any cause or causes whatsoever during the term of this License or any occupancy hereunder, holdover periods or any other occupancy of the PREMISES during the term of this License, except (i) those Losses that are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by sole gross negligence of the STATE or its employees, or (ii) to the extent any such Losses are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by the willful misconduct of the STATE or its employees; provided, however, any condition of the PREMISES that is found to be in violation of any Applicable Law by a court or administrative tribunal of competent jurisdiction shall not be deemed gross negligence or willful misconduct on the

part of the STATE or its employees; (b) breach of LICENSEE'S obligations under the AGREEMENT, (c) negligence or other wrongful act by LICENSEE or its Representatives, (d) violation of Applicable Law by LICENSEE or its Representatives, (e) any allegation that the PREMISES do not comply with Applicable Law. "Representatives" means LICENSEE'S agents, employees, representatives, contractors, or any other person or persons acting within the direct control or authority of such party or its agents, employees, representatives or contractors.

VI. FEES

1. The use fee is waived based on Services in Kind as per California Army National Guard Regulation 210-2 paragraph 9.
2. Utility accounts will be transferred to LICENSEE, which will directly pay utility costs on an as-incurred basis.

VII. TERM

License shall take effect no earlier than May 5, 2023 or upon execution by STATE, whichever is later, and shall expire no later than 0800 (8:00 A.M.) May 4, 2024.

VIII. AMENDMENT AND TERMINATION

AGREEMENT cannot be amended or modified in any way except by a written AGREEMENT duly executed by STATE and LICENSEE. Any proposal for amendment or modification must be delivered for review and approval by the Chief, Realty Operations or her/his delegatee.

AGREEMENT may be terminated by either party upon 30 days' written notification to the other party at the addresses previously given in Section III; "Notification". Upon termination, the activities of the parties shall be governed by the applicable provisions of the Military and Veterans Code. STATE is not obligated to reimburse LICENSEE any fees should it terminate this AGREEMENT before reaching its full term.

IX. ENTIRE AGREEMENT

AGREEMENT, along with any exhibits attached hereto, constitutes the entire covenant and understanding between STATE and LICENSEE for PREMISES. AGREEMENT supersedes all prior and contemporaneous routine activity agreements, representations or understandings, if any, whether oral or written.

X. DURATION & RENEWAL

AGREEMENT shall remain in effect through the termination date and will not be extended, but may be renewed annually subsequent to renegotiation required to protect the parties.

XI. RIGHT TO ENTER

During continuance in force of AGREEMENT, there shall be, and is hereby expressly reserved to STATE and to any of its contractors, agents, employees, representatives, or licensees, the right at any and all reasonable times, and any and all places to temporarily enter upon said PREMISES for inspection or other lawful STATE purposes.

XII. ENVIRONMENTAL LAWS AND REGULATIONS

LICENSEE must comply with all applicable local, State or Federal environmental

provisions, requirements, ordinances, regulations or laws. AGREEMENT does not constitute any form of authorization, permit, or opinion with respect to the satisfaction thereof. LICENSEE agrees that it shall comply with all laws, federal, state, or local, existing during the term of this license pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law.

1. In the event STATE or any of its affiliates, successors, principals, employees, or agents should incur any liability, cost, or expense, including attorney's fees and costs, as a result of the LICENSEE'S illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, the LICENSEE shall indemnify, defend, and hold harmless any of these individuals against such liability.
2. Where the LICENSEE is found to be in breach of this Paragraph due to the issuance of a government order directing the LICENSEE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by the LICENSEE or any person acting under LICENSEE'S direct control and authority, LICENSEE shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by STATE in connection with or in response to such government order.

XIII.

DEFAULT

LICENSEE shall make all required payments to the STATE without deduction, default or delay. In the event of the failure of LICENSEE to do so, or in the event of a breach of any of the other terms, covenants or conditions herein contained on the part of LICENSEE to be kept and performed, and if such default continues for a period of thirty (30) days after receipt of written notice from STATE to LICENSEE of such default, this License may, at the STATE'S sole discretion, be terminated.

In the event of termination of this License, it shall be lawful for STATE to reenter into and upon the PREMISES and every part thereof and to remove and store at LICENSEE's expense all property therefrom and to repossess and occupy the PREMISES. In the event STATE terminates this License pursuant to this Paragraph, the STATE shall not be required to pay LICENSEE any sum or sums whatsoever.

XIV.

SERVICE ANIMALS

Service Animal Defined by Title II and Title III of the ADA: (from the ADA National Network)

Under Title II and III of the ADA, service animals are **limited to dogs** individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individual's disability. A doctor's letter does not turn an animal into a service animal.

Examples of animals fitting the ADA's definition of "service animal" because they have been **specifically trained to perform a task for the person with a disability:**

Guide Dog or Seeing Eye® Dog1 is a carefully trained dog that serves as a travel tool for persons who have severe visual impairments or are blind.

Hearing or Signal Dog is a dog that has been trained to alert a person who has a significant hearing loss or is deaf when a sound occurs, such as a knock on the door.

Psychiatric Service Dog is a dog that has been trained to perform tasks that assist individuals with disabilities to detect the onset of psychiatric episodes and lessen their effects.

SigDOG (sensory signal dogs or social signal dog) is a dog trained to assist a person with autism. The dog alerts the handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (e.g., hand flapping).

Seizure Response Dog is a dog trained to assist a person with a seizure disorder. The dog may stand guard over the person during a seizure or the dog may go for help. A few dogs have learned to predict a seizure and warn the person in advance to sit down or move to a safe place.

While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, **they are not considered service animals under the ADA**. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities and are not covered by federal laws protecting the use of service animals.

A public facility is not allowed to ask for documentation or proof a dog has been certified, trained, or licensed as a service animal. Staff on site may ask the following questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

No further questions should be asked regarding the disability or the animal, nor is it permissible to ask that the dog perform the task that grants it to be a service animal.

CONCURRENCE

FOR THE ADJUTANT GENERAL

CITY OF PORTERVILLE

DATE:

DATE:

RESOLUTION NO. 15 -2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE
CATASTROPHIC / EMERGENCY RESERVE FOR THE COSTS ASSOCIATED
WITH THE RESPONSE TO THE LOCAL FLOOD EMERGENCY**

WHEREAS: Pursuant to Chapter 9 of the Porterville Municipal Code, Mayor Martha A. Flores declared the existence of a local emergency within the City of Porterville on March 13, 2023 due to the threat to life and property caused by a series of storms impacting Success Lake significantly increasing the Tule River flows; and

WHEREAS: Flood water and water from Success Lake had caused evacuation warnings and mandatory evacuation orders in the month of March for some local residents; and

WHEREAS: Historic water levels and flows of the Tule River have caused erosion to the river banks, prompting City staff to take extraordinary measures to protect the riverbanks and avoid potentially catastrophic flooding;

WHEREAS: The significant threat of local flooding emergency continues to exist with the estimated snow pack in the Sierra Nevada mountains of more than three hundred percent (300%) of normal and the potential for a warm storm or heat wave this Spring; and

WHEREAS: The City of Porterville Municipal Code Section 2-31.2, established the Catastrophic / Emergency Reserve Fund for the purpose of providing funds to mitigate costs associated with unforeseen emergencies, including natural disasters or catastrophic events;

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council of the City of Porterville make a finding that the local flood emergency is an unforeseen and unavoidable event that require the expenditure of City resources beyond those provided for in the annual budget; and
2. That the City Council of the City of Porterville does hereby approve and authorize the appropriation of funds from the Catastrophic / Emergency Reserve Fund for the costs associated with the response to the local emergency including personnel, equipment, services, and other necessary expenditures; and
3. That the City Council authorize the replacement of funds from any grant funds that may be used to reimburse said costs.

PASSED, APPROVED AND ADOPTED this 4th day of April, 2023.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

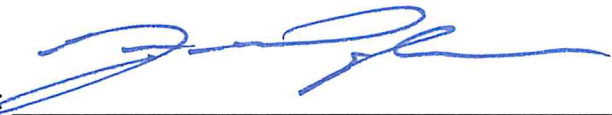
I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 4th day of April, 2023.

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

Council:	FLORES	CARRILLO	WEYHRAUCH	BELTRAN	MEISTER
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					



JOHN D. LOLLIS, City Clerk

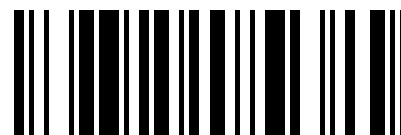
By: 
Fernando Gabriel-Moraga, Deputy City Clerk

Invoice

Calwen Inc. dba Rescue Source & Rescue 3 Intl

Calwen Inc. dba Rescue Source & Rescue 3
P.O. Box 1050
Wilton, CA 95693
Phone: 916-687-6556
Fax: 916-687-6717
Email: info@rescuesource.com

Order #	Date
131282	03/20/2023



Bill To: PORTERVILLE FIRE DEPARTMENT 40 W CLEVELAND PORTERVILLE, CA 93257 Phone: 559-782-7526 Email: jrodriguez@ci.porterville.ca.us	Ship To: PORTERVILLE FIRE DEPARTMENT 40 W CLEVELAND PORTERVILLE, CA 93257 Contact: JANIE RODRIGUEZ PO Number: 23-22733
Customer: PORTERVILLE FIRE DEPARTMENT	

Sales Rep	Payment Terms	FOB Point	Carrier	Ship Service	Date Scheduled
MELISSA	NET 30	Origin	UPS Next Day Air		03/20/2023

Item #	Type	Number	Description	Unit Price	Qty Ordered	Total Price
1	Kit	KT2210	PFD TYPE V PACKAGE	\$250.00	20 ea	\$ 5,000.00
2	Sale	PF4026R	NRS 2022 RAPID RESCUER RED	\$0.00	20 ea	\$ 0.00
3	Sale	KN2556OR	NRS PILOT KNIFE ORANGE	\$0.00	20 ea	\$ 0.00
4	Sale	WH7905	WHISTLE-RESCUE 3 LOGO WITH COIL	\$0.00	20 ea	\$ 0.00
5	Sale	HL7050HVL/XL	RQ3 STORM PRO HELMET HI VIS LARGE/XLARGE	\$32.00	20 ea	\$ 640.00
6	Shipping	Freight	Freight Out	\$256.00	1 ea	\$ 256.00
7	Sale	Tax Expense	Tax Expense	\$521.70	1 ea	\$ 521.70

Subtotal:	\$6,417.70
Sales Tax:	\$0.00
Total:	\$6,417.70

Thank you for your order.
If you have any questions please call 800-457-3728
or e-mail info@rescuesource.com.

Royal Restrooms

A Regal Portable Restroom Experience

1452 N. Vasco Road #101
Livermore, Ca 94551
Phone: 877.922.9980
Fax:(925) 337-8878

Cage Code 5HJ93

DATE:
INVOICE # 04-12-2023
FOR:
BILL TO: Portable Restrooms
Donnie Moore
dmoore@ci.porterville.ca.us
(559) 782-7539

DESCRIPTION	T	AMOUNT
1 Single ADA Shower/Restroom Combo	t	\$4,250.00
1 Three Stall Shower/Restroom Combo	t	\$4,850.00
Delivery	t	\$100.00
Installation and Removal		\$2,500.00
Before/After Hours or Same Day Services		\$600.00

Due upon receipt-----For Royal Restrooms of California [W9 Click here.](#)

Make all checks payable to Royal Restrooms of California. If payment is not received per terms of agreement signed, applicable late fees will be applied.If you have any questions concerning this invoice, call Us at 877-922-9980 california@royalrestroomsca.com

THANK YOU FOR YOUR BUSINESS!

TAXABLE SUBTOTAL	\$9,200.00
TAX RATE	9.250%
SALES TAX	\$851.00
NON TAXABLE SUBTOTAL	\$3,100.00
TOTAL	\$13,151.00



INVOICE

24/7 Emergency 800-742-7246
www.rainforrent.com

Rain For Rent
Bakersfield
4001 State Rd
Bakersfield CA 93308
United States
661-399-1724

Your sales person	REMIT PAYMENTS TO:
JESSE PINTOR	Rain for Rent RAIN FOR RENT FILE 52541 LOS ANGELES, CA 90074-2541

CONTRACT # 1169502 CUSTOMER CITY OF PORTERVILLE CUSTOMER # 112354 NAME CITY OF PORTERVILLE ADDRESS 291 N MAIN ST PORTERVILLE CA 93257 PHONE	INVOICE# 1854595	INVOICE DATE 3/30/2023	PO or JOB# 23-22734	PAYMENT DUE 4/29/2023
PLEASE PAY				\$77,396.67
SHIPPED TO JOBSITE:				
NAME CITY OF PORTERVILLE ADDRESS Corporation Yard 555 N Prospect St Porterville CA 93257 PHONE				

Notes:

Requested by: Michael Knight
PO Number: 23-22734

QTY	UOM	DESCRIPTION	PRODUCT #	STATUS	DATE OUT	BILLED THRU	DAYS BILLED	PRICE	AMOUNT	TAXABLE
1.00	EA	Pump BA150E D285 Tlr Mt Diesel Eng Hatz 4H50TIC	1022734		SALES		0.00	\$65,685.06	\$65,685.06	Y
1.00	EA	Shipping/Handling Freight	M240			SERVICES	0.00	\$5,158.57	\$5,158.57	Y

TOTAL SALES:	\$65,685.06
TOTAL RENTALS:	\$0.00
TOTAL SERVICES:	\$5,158.57
TOTAL OTHER:	\$0.00
SUBTOTAL:	\$70,843.63
TAX:	\$6,553.04

TOTAL: \$77,396.67

FOR PROPER CREDIT, PLEASE INCLUDE INVOICE NUMBER ON YOUR PAYMENT.
PAST DUE AMOUNTS ARE SUBJECT TO A SERVICE CHARGE OF 1.50%
CUSTOMER, (RENTEE OR BUYER as context requires), shall be deemed to accept
all terms, conditions and provisions hereof upon execution of this agreement;
ordering; or delivery of equipment to customer, whichever comes first.

PAYMENT TERMS: NET 30

SIGNATURE: _____ DATE: _____

Mike Clark Trucking
19385 Avenue 144
Porterville, CA 93257 US
+1 5597845486
mct3desk1@yahoo.com



INVOICE

BILL TO

City of Porterville
Street Superintendent, Field
Service Div.
555 N. Prospect
Porterville, Ca 93257

INVOICE # 2637**DATE** 03/23/2023**DUE DATE** 04/25/2023**TERMS** Net 30

DATE	FREIGHT	ACTIVITY	FREIGHT BILL	RATE	AMOUNT
03/23/2023	8.80	Super 10	7383117 - Luque	120.00	1,056.00
03/23/2023	9.70	Super 10	7383219 - Luque	120.00	1,164.00
03/23/2023	9.70	Super 10	7383046 - Luque	120.00	1,164.00
03/23/2023	9.80	Super 10	8432857 - Luque	120.00	1,176.00
03/23/2023	7.30	Super 10	9281272 - Luque	120.00	876.00

Thank you for your business!

SUBTOTAL	5,436.00
TAX	0.00
TOTAL	5,436.00
BALANCE DUE	\$5,436.00

A finance charge of 1.5% monthly/18% annually will be charged on accounts over 30 days past due. In the event a suit is brought to enforce collection, the customer shall be liable for responsible attorneys fees and costs of the suit.

CHAPTER 9

CIVIL DEFENSE AND DISASTER

SECTION:

9-1: Purpose Of Chapter

9-2: Definitions

9-3: Emergency Council

9-4: Officers Of Emergency Council

9-5: Emergency Council Meetings

9-6: Duties Of Emergency Council

9-7: Powers Of Chairman Of Emergency Council

9-8: Exercises Or Drills

9-9: Acts Authorized Under Certain Conditions

9-10: Emergency Services Coordinator

9-11: Powers And Duties Of Coordinator

9-12: Emergency Powers Of Coordinator

9-13: Emergency Services Organization

9-14: Functions And Duties Of Emergency Service Organization

9-15: Acts Unlawful During Disasters

9-16: Penalty For Violation Of Chapter

9-1: PURPOSE OF CHAPTER:

The purposes of this chapter are to provide for the preparation and carrying out of plans for disaster and emergency services, the protection of persons and property within the city of Porterville in the event of a disaster, and to provide for the coordination of the disaster and emergency functions of the city with all other affected persons and agencies, both public and private. Any expenditures made in connection with such disaster or emergency services, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property in the city. (Ord. 987 § A, 10-6-1970)

9-2: DEFINITIONS:

Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:

DISASTER: Actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, riot, earthquake or other public calamity. It shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

EMERGENCY SERVICES: The preparation for carrying out disaster functions, other than functions for which military forces are primarily responsible, and to prevent, minimize and repair injury and damage resulting from disasters. It shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

EMERGENCY SERVICES OFFICE: The physical facilities constituting the Tulare operational area's primary emergency operating center, and the necessary staff and personnel to operate such facilities on a day to day or disaster emergency basis.

TULARE OPERATIONAL AREA: The unincorporated area of the county, and the cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia and Woodlake. (Ord. 987 § A, 10-6-1970)

9-3: EMERGENCY COUNCIL:

The emergency council of the Tulare operational area is hereby created and shall consist of the following members:

A. The chairman of the board of supervisors of the county. Said board of supervisors shall appoint an additional member of said board to serve as an alternate member of the emergency council when the chairman is absent from the county or is not immediately available to perform his duties.

B. The mayors of the cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia and Woodlake, or alternates appointed by the respective city councils.

C. Two (2) persons residing in the unincorporated area of the county who shall be appointed by the other members of the emergency council.

D. The emergency services coordinator of the county, who shall be an ex officio member and who shall not be entitled to a vote at the meetings of the emergency council. (Ord. 987 § A, 10-6-1970)

9-4: OFFICERS OF EMERGENCY COUNCIL:

The officers of the emergency council shall be a chairman, and such other officers as the council may deem necessary. The chairman of the board of supervisors shall serve as chairman of the council. When he is absent from the county or is not immediately available to perform his duties, the other member of the board of supervisors who is a member of the council shall serve as chairman. (Ord. 987 § A, 10-6-1970)

9-5: EMERGENCY COUNCIL MEETINGS:

The emergency council may hold regular meetings at a time and place established by the council. Special meetings of the council shall be called in accordance with section 54950 et seq., of the Government Code of the state of California. Special meetings may be called by the chairman or the alternate chairman designated pursuant to section 9-4 of this chapter. The council shall meet at least four (4) times each year. The council shall have the power to adopt rules and regulations governing the conduct of its meetings. (Ord. 987 § A, 10-6-1970)

9-6: DUTIES OF EMERGENCY COUNCIL:

It shall be the duty of the emergency council to review and recommend for adoption by the board of supervisors and the respective city councils, disaster and mutual aid plans and agreements, and such ordinances, resolutions, rules, regulations and budgets as are necessary to implement such plans and agreements. (Ord. 987 § A, 10-6-1970)

9-7: POWERS OF CHAIRMAN OF EMERGENCY COUNCIL:

The chairman of the emergency council is hereby empowered to perform the following acts:

A. Serve as the emergency services director of the Tulare operational area.

B. Request the city council of the city of Porterville to proclaim the existence or threatened existence of a local emergency and the termination thereof, if the city council is in session, or to issue such a proclamation if the city council is not in session, subject to confirmation by the city council at the earliest practicable time.

C. Request the mayor to request the governor to proclaim a state of disaster when in the opinion of the chairman the resources of the area are inadequate to cope with the disaster on a local basis. (Ord. 987 § A, 10-6-1970)

9-8: EXERCISES OR DRILLS:

The chairman of the emergency council shall order an exercise or drill of the entire emergency services organization at least once each year, and a minimum of two (2) exercises or drills for selected portions of the emergency operating center staff each year. Participation in required state or federal exercises, special drills for communications, radiological, fire, law enforcement or other specific services shall be in addition to the exercises or drills required hereinabove. (Ord. 987 § A, 10-6-1970)

9-9: ACTS AUTHORIZED UNDER CERTAIN CONDITIONS:

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of disaster by the governor or the director of the California disaster office, or in the event of a war caused state of

extreme emergency, the chairman, as the emergency services director of the Tulare operational area, is hereby empowered to perform the following acts:

A. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the emergency council.

B. Subject to the approval of the city council, to obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property of the people, and to bind the city for the fair value thereof and, if required, to commandeer the same immediately for public use.

C. Require emergency services of any city officer or employee, and in the event of the proclamation of a state of disaster or extreme emergency by the governor in the region in which the city is located, to commandeer the aid of as many citizens as he thinks necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities which are provided by state law for registered civil defense and disaster volunteer workers.

D. Requisition any necessary equipment or materials from any city department or agency.

E. Execute all of the special powers conferred upon him by this chapter or by resolution adopted pursuant thereto, all powers conferred upon him by any statute, by any agreement approved by city council, or by any other lawful authority. (Ord. 987 § A, 10-6-1970)

9-10: EMERGENCY SERVICES COORDINATOR:

There is hereby created the position of emergency services coordinator of the Tulare operational area who may be referred to as the coordinator. He shall serve as the executive officer of the Tulare operational area and his staff shall serve as the staff of the emergency services office. The board of supervisors of the county of Tulare shall consider the recommendations of the emergency council in the appointment or dismissal of the coordinator. (Ord. 987 § A, 10-6-1970)

9-11: POWERS AND DUTIES OF COORDINATOR:

The coordinator shall have the following general powers and duties:

A. Represent the emergency council and its chairman as their executive officer for the purpose of coordinating all efforts within the Tulare operational area for the accomplishment of the purposes of this chapter.

B. Identify and define questions of authority and responsibility that may arise between persons and agencies referred to in section 9-13 of this chapter and submit recommendations for resolving such matters to the chairman.

C. Represent the Tulare operational area in all dealings with public or private agencies pertaining to disaster or civil defense, when authorized by the chairman.

D. Prepare an operational plan with necessary service annexes and standing operating procedures to provide administrative guides for the Tulare operational area.

E. Plan and conduct exercises and drills, as ordered by the chairman, for the emergency services organization or for the emergency operating center staff. (Ord. 987 § A, 10-6-1970)

9-12: EMERGENCY POWERS OF COORDINATOR:

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of disaster by the governor, or in the event of a war caused state of extreme emergency, the coordinator is hereby empowered to perform the following acts:

A. Activate the emergency operating center including calling in, as necessary, service chiefs, standby staff and service dispatchers.

B. Cause the dissemination of appropriate warning signals and issue suitable advisory information to the emergency council, the emergency services organization and the public.

C. Advise the California disaster office of the local situation.

D. Request mutual aid through the California disaster office if local deficiencies of personnel and/or equipment are indicated by the service chiefs.

E. Order the provision of security for the emergency operating center and communications staff. (Ord. 987 § A, 10-6-1970)

9-13: EMERGENCY SERVICES ORGANIZATION:

All officers and employees of the county and the cities included in the Tulare operational area, together with those volunteer forces enrolled to aid them during a disaster and all groups, organizations and persons, including persons commandeered under the provision of subsection 9-9C of this chapter who by operation of law or agreement may be charged with duties incident to the protection of life and property in the city during such disaster, shall constitute the emergency service organization of the Tulare operational area. (Ord. 987 § A, 10-6-1970)

9-14: FUNCTIONS AND DUTIES OF EMERGENCY SERVICE ORGANIZATION:

The functions and duties of the emergency services organization shall be distributed among such divisions, services and special staff as the emergency council shall prescribe by resolution, subject to the approval of the board of supervisors of the county and the respective city councils. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the federal government and the California disaster office. (Ord. 987 § A, 10-6-1970)

9-15: ACTS UNLAWFUL DURING DISASTERS:

It shall be unlawful for any person to perform any of the following acts during a disaster:

A. Wilfully obstruct, hinder or delay any member of the emergency services organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon him by virtue of this chapter.

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter, if such act is of such a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent or delay the defense or protection thereof.

C. To wear, carry or display, without authority, any means of identification specified by the civil defense and disaster agency of the federal government or the state of California. (Ord. 987 § A, 10-6-1970)

9-16: PENALTY FOR VIOLATION OF CHAPTER:

Any person violating any of the provisions of this chapter which are declared to be unlawful shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the Tulare County jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. 987 § A, 10-6-1970)

State of California

GOVERNMENT CODE

Section 8558

8558. Three conditions or degrees of emergency are established by this chapter:

(a) “State of war emergency” means the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that an enemy attack is probable or imminent.

(b) “State of emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(c) (1) “Local emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, deenergization event, electromagnetic pulse attack, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage or deenergization event that requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(2) A local emergency proclaimed as the result of a deenergization event does not trigger the electric utility obligations set forth in Public Utilities Commission Decision 19-07-015 or its successor decisions as related to deenergization events. A local emergency proclaimed as the result of a deenergization event does not alter the electric

utilities' Public Utilities Commission-approved cost-recovery mechanisms for their own costs associated with deenergization events.

(Amended by Stats. 2022, Ch. 537, Sec. 1. (SB 468) Effective January 1, 2023.)