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

The City of Porterville is allowing for electronic viewing of City Council Meetings. Porterville City Council Meetings will be live streamed on YouTube at https://www.youtube.com/@cityofporterville4149

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City of Porterville – City Council Meeting of August 6, 2024

Please use the following link below to join the webinar:
https://us06web.zoom.us/j/85471617691?pwd=jIuex7WE1XLYvSIHLa8snbM0Ud9Gz2.1

Or via Telephone: 1-669-900-6833 *Webinar ID:* 854 7161 7691 *Passcode:* 533733

Call to Order

Roll Call

ORAL COMMUNICATIONS

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

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 268-100-005. Agency Negotiator: Patrice Hildreth and Jason Ridenour. Negotiating Parties: City of Porterville and Thomas J. and Deborah L. O'Sullivan Trust. Under Negotiation: Terms and Price.

2 - Government Code Section 54956.95 – Liability Claim: Claimant: Connect - American Family Insurance as subrogee of Mark Alvarez. Agency claimed against: City of Porterville.

3 - Government Code Section 54956.95 – Liability Claim: Claimant: Donald William McCarthy. Agency claimed against: City of Porterville.

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

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

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

7 - Government Code Section 54957 – Public Employment: City Manager.

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

Pledge of Allegiance Led by Vice Mayor Carrillo

Invocation

PRESENTATIONS

Employee of the Month - Larry Segovia

ORAL COMMUNICATIONS

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

REPORTS

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

I. Staff Informational Reports

Code Enforcement Quarterly Report

Building Permit Activity 4th Quarter Report FY 2023-2024 (April-June 2024)

Street Performance Measure Quarterly Report FY 2023-2024 (April – June 2024)

Golf Course Quarterly Report FY 2023-2024 (April-June 2024)

Community Development Block Grant Business Loan Update

Charitable Car Washes Quarterly Report Calendar Year 2024

City Council Member Appointments Attendance Quarterly Report FY 2023-2024 (April - June 2024)

City Commission and Committee Attendance Quarterly Report FY 2023-2024 (April - June 2024)

CONSENT CALENDAR

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

1. **Approval of Draft Minutes of July 16, 2024**
   Re: Considering approval of the City Council draft Minutes of July 16, 2024.

2. **Authorization to Purchase Trailer for Encampment Abatement Program**
   Re: Consideration to authorize the purchase of a trailer for the encampment abatement program from Big Tex Trailer World for $12,389.31.

3. **Authorization to Purchase Street Sweeper Blower Wheel**
   Re: Consideration to authorize the purchase of a replacement blower wheel for a Street Sweeper from GCS Environmental at a cost not to exceed $8,233.

4. **Authorization for Refuse Truck Engine Repair**
   Re: Considering approval of the refuse truck engine repair by Cummins Pacific at a cost not to exceed $34,675.

5. **Request For Renewal of Accela PublicStuff One Year Contract**
   Re: Consideration to authorize a one year contract renewal with Accela for the PublicStuff Pro Services.

6. **Renewal of Annual Contract with Vector Solutions Scheduling Software**
   Re: Consideration to approve the renewal and continued yearly contract with Vector Solutions Scheduling Software for the Fire Department at a cost of $5,605.20.

7. **Authorization to Distribute a Request for Proposals for Fuel System Upgrades**
   Re: Council to authorize staff to advertise Request for Proposals (RFP) for the Fuel System Project at an estimated project cost of $300,000.

8. **Authorization to Distribute a Request for Proposals for Security Improvements**
   Re: Council to authorize staff to advertise Request for Proposals (RFP) for the Security Improvement Project at an estimated project cost of $260,000.

9. **Authorization to Distribute a Request for Proposals for Charging Station Replacement**
   Re: Council to authorize staff to advertise Request for Proposals (RFP) for the Charging Station Replacement Project at an estimated project cost of $1,585,000.

10. **Authorization to Distribute a Request for Proposals for Renewable Natural Gas Supplier**
    Re: Council to approve the draft Request for Proposals for Renewable Natural Gas Supplier.

11. **Authorization to Distribute a Request for Proposals for Compressed Natural Gas Fueling Station Maintenance Service**
    Re: Council to approve the draft Request for Proposals for Compressed Natural Gas Fueling Station Maintenance Service, and authorize staff to advertise for proposals on the project.

12. **Award of Contract - Golf Course Management Services**

Re: Considering negotiation of an agreement with Casey Butler, contingent upon the City Attorney's review, for a five-year contract under the terms defined in the agreement for golf course management services.

13. **Acceptance of Project - Golf Course Driving Range Netting Project**
Re: Consideration to accept the Golf Course Driving Range Netting Project, located at 702 E Isham Ave, Porterville, CA 93257, as complete.

14. **ESRI Maintenance Contract**
Re: Considering renewal of annual maintenance agreement with the Environmental Systems Research Institute (ESRI).

15. **Authorization to Negotiate Consultant Agreement – Active Transportation Plan**
Re: Considering authorization to negotiate a consultant agreement with GHD, Inc. of Fresno, CA, for the development of an active transportation plan.

16. **Approving a Resolution for FY 2023 Transportation Development Act (TDA) Claims**
Re: Consideration to approve a draft resolution authorizing The Tulare County Regional Transit Agency to submit a FY 2023-24 Transportation Development Act (TDA) claim in the amounts of $991,292.10 in State Transit Assistance funds and $603,283 in Local Transportation Funds (LTF) based on their adopted FY 2023 budget; and the City of Porterville to submit a FY 2023-24 TDA claim for the remaining balance of LTF funds in the amount of $2,963,751.28.

17. **General Plan Conformance APN 253-203-003**
Re: Consideration to adopt the draft Resolution, detailing the results of its investigations pursuant to California Government Code Section 65402(b), and forward said resolution to the County of Tulare General Services Agency.

18. **Participation in Kroger Opioid Settlement**
Re: Consideration of participation in the Kroger Opioid Settlement.

19. **Authorization to Roll Unpaid Utility Accounts to the 2024-2025 Property Tax Rolls**
Re: Consideration to approve the draft resolution authorizing the Tulare County Auditor to place unpaid utility accounts on the 2024-2025 property tax rolls for collection.

20. **Financial Status Reports**
Re: Consideration to accept the preliminary financial status reports as of June 30, 2024, as presented.

21. **Quarterly Investment Portfolio**
Re: Considering acceptance of the Investment Portfolio Summary Report as of June 30, 2024.

22. **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.

PUBLIC HEARINGS

23. Landscape and Lighting Maintenance Districts Annual Assessments

Re: Pursuant to California Government Code Sections 54955 and 54955.1, staff requests that the City Council adjourn, or if applicable order the City Clerk to adjourn, the public hearing and consideration of this item to the Adjourned Regular Meeting to be held at 4:00 p.m. on Friday, August 9th, 2024, to conduct a Public Hearing on the 2024-2025 assessments for the Landscape and Lighting Maintenance Districts to take comments or receive protests on the proposed assessments; and to adopt the draft Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer's Report and Assessments for the 2024-2025 Fiscal Year.

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

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

SCHEDULED MATTERS

25. Approval of Amended FY 2024-25 Transit Division Budget, Program Of Projects, and TDA Claim

Re: Consideration to rescind Resolution 40-2024 for the FY 2024 TDA claim; approve the draft resolution adopting the amended FY 2024-25 Transit Division Budget and Program of Projects; and approve the draft resolution for the FY 2024 TDA claim.

AB 1234 REPORTS

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

1. Tulare County Task Force on Homelessness - July 17, 2024
2. Tulare County Economic Development Corp. (TCEDC) - July 24, 2024
3. Local Initiatives Navigation Center (LINC) Committee - July 24, 2024
4. Eastern Tule Groundwater Sustainability Agency (ETGSA) - August 1, 2024

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

Any Closed Session Items not completed prior to 5:00 p.m. will be considered at this time.

ADJOURNMENT - to the Adjourned Regular Meeting of August 9th, at 4:00 p.m.

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

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

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: Code Enforcement Quarterly Report

SOURCE: Fire

COMMENT: This informational report utilizes data from the "myPorterville" application for tracking code enforcement activity between April 1, 2024 through June 30, 2024. During the 4th quarter of fiscal year 2023/2024, each department of the City contributed towards recording 880 code enforcement issues. Of these, 690 were corrected and 190 were continued into the 1st quarter of 2024/2025 for additional corrective action. The Code Enforcement Division issued 54 Administrative Citations.

At its meeting on July 20, 2021, the City Council reviewed its Ordinance related to the parking and storing of recreational vehicles, boats, and trailers. During the past quarter, Code Enforcement received sixteen (16) complaints specific to recreational vehicles, boats, and trailers, of which eleven (11) had been completed at the time of this report.

RECOMMENDATION: Informational only

ATTACHMENTS: 1. Code Enforcement FY 23-24 Q4

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Fire Chief

Final Approver: Patrice Hildreth, City Manager

Code Enforcement Report, Quarter 2, FY 22-23

Q4 Code Enforcement Activity	# Requests	# Completed	% Closed
Abandoned Vehicle (Street)	49	23	46.94%
Animals- agricultural animals	3	1	33.33%
Animals- barking dogs	8	1	12.50%
Animals- keeping too many or unauthorized species	3	2	66.67%
Building Department/ Permits	14	2	14.29%
CEO, Business License	6	5	83.33%
CEO, Shopping Carts	101	101	100.00%
CEO, Sign Removal	184	184	100.00%
Code Enforcement, General	69	59	85.51%
Community Development, General or MULTIPLE violations	4	0	0.00%
Engineering	17	5	29.41%
Garbage Collection/ Illegal Dumping	24	15	62.50%
Graffiti	14	14	100.00%
Health Hazard	4	1	25.00%
Itinerant Vendor, Solicitor, Peddler	20	19	95.00%
Landscaping/trees- private property	16	3	18.75%
Meter Request	52	50	96.15%
Neglected property/trash & debris	5	2	40.00%
Outdoor Storage	5	2	40.00%
Parks	16	9	56.25%
Police/ Traffic Enforcement	42	19	45.24%
Potholes	19	16	84.21%
Refuse Can Replacement / Repair	16	11	68.75%
Report Leak	39	36	92.31%
Sidewalk Condition	8	3	37.50%
Signs- In Public Right of Way	5	0	0.00%
Signs- Temporary	4	0	0.00%
Stop Light Issue	11	11	100.00%
Storm Water	2	2	100.00%
Vehicles- inoperable vehicles	7	5	71.43%
Vehicles- Parked on lawn	2	2	100.00%
Vehicles- RVs/boats/etc	16	11	68.75%
Water Waste	4	4	100.00%
Water Waste Admin Cite	3	3	100.00%
Water Waste NOV	19	19	100.00%
Weed Abatement	67	49	73.13%
Yard Sales, Frequent	2	1	50.00%
Q4 Total	880	690	62.08%

Administrative Citations	Q1	Q2	Q3	Q4	Total
$100	11	13	9	27	$6,000
$200	3	4	4	3	$2,800
$500	8	12	6	14	$20,000
$1,000	2	3	1	9	$15,000
$2,500	43	0	1	2	$115,000
FY 23-24 Total Assesment	67	32	21	55	$158,800

Shopping Carts	Q1	Q2	Q3	Q4	Total
Collected	39	49	204	145	437
Disposed (Lbs.)	0	0	0	0	0

Private Property Vehicle Abatements	Q1	Q2	Q3	Q4	Total
Voluntary Abatement	3	11	24	20	58
Certified Voluntary Abatement	0	1	0	0	1
Towed	5	1	3	4	13
Total Vehicles Abated	8	13	27	24	72

Weed Abatement	Q1	Q2	Q3	Q4	Total
Properties Noticed	12	3	1329	169	1513
Completed by Owner	116	2	23	1,459	1600
Assigned to Contractor (private)	0	0	1	4	5
Assigned to Contractor (city owned)	0	0	0	0	0
Completed by Contractor	0	0	1	4	5
Admin Citations	0	3	5	15	23

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: Building Permit Activity 4th Quarter Report FY 2023-2024 (April-June 2024)

SOURCE: Engineering and Project Management

COMMENT: The Building Permit Activity Report (BPAR) presented herein to the City Council covers the months of April, May and June 2024. The two main categories include new residential permits issued and new commercial permits issued.

4th Quarter of FY 2022/2023 compared to 4th Quarter of FY 2023/2024
New residential permits issued during the 4th quarter of 2023/24 (23) showed a 27.78% increase from the 4th quarter of 2022/23 (18). New commercial permits issued during the 4th quarter of 2023/24 (0) showed no change from the 4th quarter of 2022/23 (0).

Year-to-Date (July 2023 to June 2024)
New residential permits issued this fiscal year (96) are up 21.52% compared to the same period last fiscal year (79). The number of commercial permits issued this fiscal year (5) is up 25% from the same period last fiscal year (4).

RECOMMENDATION: Information Only

ATTACHMENTS:
1. Building Permit Activity - April 2024
2. Building Permit Activity - May 2024
3. Building Permit Activity - June 2024

Appropriated/Funded:

Review By:

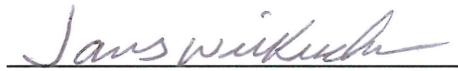
Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE - BUILDING DIVISION
REPORT FOR THE PERIODS OF
7/1/2022 - 4/30/2023 AND
7/1/2023 - 4/30/2024

PERMIT	NUMBER OF PERMITS ISSUED				ACTUAL VALUATION OF PERMITS ISSUED				BUILDING FEES TOTALS FOR PERMITS ISSUED			
	APRIL 2024	APRIL 2023	THIS YEAR TO DATE	LAST YEAR TO DATE	APRIL 2024	APRIL 2023	THIS YEAR TO DATE	LAST YEAR TO DATE	APRIL 2024	APRIL 2023	THIS YEAR TO DATE	LAST YEAR TO DATE
NEW RESID	13	4	86	65	3,242,753	758,017	21,392,725	11,375,535	26,360.22	8,680.74	185,694.30	137,370.26
NEW COMM	0	0	5	4	0	0	3,784,000	2,215,000	0.00	0.00	21,567.05	9,221.72
RESID IMROV	4	13	61	62	133,229	225,500	1,123,114	1,400,319	3,190.88	5,277.25	31,747.69	30,525.00
COMM IMPROV	0	0	0	0	0	0	0	0	0.00	0.00	0.00	0.00
OTHER	38	41	340	270	663,945	418,696	9,544,090	5,469,225	9,542.05	8,934.35	87,592.61	65,538.50
ELECT	34	96	436	894	727,305	1,847,923	9,024,998	20,139,487	6,718.00	18,541.00	88,117.70	177,755.70
PLUMB	51	50	430	465	199,383	104,044	1,693,231	1,350,450	8,173.00	5,134.00	59,185.00	61,185.00
TOTALS	140	204	1,358	1,760	4,966,615	3,354,180	46,562,157	41,950,016	53,984.15	46,567.34	473,904.35	481,596.18

	NEW DWELLING UNITS TOTALS			
	APRIL 2024	APRIL 2023	THIS YEAR TO DATE	LAST YEAR TO DATE
SINGLE FAMILY	13	4	83	62
MULTI FAMILY	0	0	6	2
TOTAL	13	4	89	64



CHIEF BUILDING OFFICIAL

CITY OF PORTERVILLE - BUILDING DIVISION
REPORT FOR THE PERIODS OF
7/1/2022 - 5/31/2023 AND
7/1/2023 - 5/31/2024

PERMIT	NUMBER OF PERMITS ISSUED				ACTUAL VALUATION OF PERMITS ISSUED				BUILDING FEES TOTALS FOR PERMITS ISSUED			
	MAY 2024	MAY 2023	THIS YEAR TO DATE	LAST YEAR TO DATE	MAY 2024	MAY 2023	THIS YEAR TO DATE	LAST YEAR TO DATE	MAY 2024	MAY 2023	THIS YEAR TO DATE	LAST YEAR TO DATE
NEW RESID	9	5	95	70	2,346,552	790,990	23,739,277	12,166,525	20,283.34	11,688.70	205,977.64	149,058.96
NEW COMM	0	0	5	4	0	0	3,784,000	2,215,000	0.00	0.00	21,567.05	9,221.72
RESID IMROV	10	13	71	75	309,375	364,826	1,432,489	1,765,145	4,959.66	10,107.71	36,707.35	40,632.71
COMM IMPROV	0	0	0	0	0	0	0	0	0.00	0.00	0.00	0.00
OTHER	45	43	385	313	1,066,971	668,310	10,611,060	6,137,535	11,769.20	15,294.55	99,361.81	80,833.05
ELECT	57	83	493	977	1,480,268	2,702,946	10,505,265	22,842,433	11,568.00	16,623.70	99,685.70	194,379.40
PLUMB	38	79	468	544	117,156	287,258	1,810,387	1,637,708	5,069.00	10,818.00	64,254.00	72,003.00
TOTALS	159	223	1,517	1,983	5,320,321	4,814,330	51,882,478	46,764,346	53,649.20	64,532.66	527,553.55	546,128.84

	NEW DWELLING UNITS TOTALS			
	MAY 2024	MAY 2023	THIS YEAR TO DATE	LAST YEAR TO DATE
SINGLE FAMILY	8	3	91	65
MULTI FAMILY	2	2	8	4
TOTAL	10	5	99	69

James Witherspoon

CHIEF BUILDING OFFICIAL

CITY OF PORTERVILLE - BUILDING DIVISION
REPORT FOR THE PERIODS OF
7/1/2022 - 6/30/2023 AND
7/1/2023 - 6/30/2024

PERMIT	NUMBER OF PERMITS ISSUED				ACTUAL VALUATION OF PERMITS ISSUED				BUILDING FEES TOTALS FOR PERMITS ISSUED			
	JUNE 2024	JUNE 2023	THIS YEAR TO DATE	LAST YEAR TO DATE	JUNE 2024	JUNE 2023	THIS YEAR TO DATE	LAST YEAR TO DATE	JUNE 2024	JUNE 2023	THIS YEAR TO DATE	LAST YEAR TO DATE
NEW RESID	1	9	96	79	115,000	1,151,191	23,854,277	13,317,716	2,518.08	19,962.16	208,495.72	169,021.12
NEW COMM	0	0	5	4	0	0	3,784,000	2,215,000	0.00	0.00	21,567.05	9,221.72
RESID IMROV	6	13	77	88	83,999	303,394	1,516,488	2,068,538	2,649.88	7,386.10	39,357.23	48,018.81
COMM IMPROV	0	0	0	0	0	0	0	0	0.00	0.00	0.00	0.00
OTHER	37	50	422	363	659,133	931,934	11,270,194	7,069,470	8,760.05	12,464.70	108,121.86	93,297.75
ELECT	59	69	552	1,046	1,415,365	1,468,516	11,920,630	24,310,949	12,156.00	13,681.70	111,841.70	208,061.10
PLUMB	37	66	505	610	180,738	214,232	1,991,125	1,851,940	5,570.00	8,940.00	69,824.00	80,943.00
TOTALS	140	207	1,657	2,190	2,454,236	4,069,267	54,336,714	50,833,613	31,654.01	62,434.66	559,207.56	608,563.50

	NEW DWELLING UNITS TOTALS			
	JUNE 2024	JUNE 2023	THIS YEAR TO DATE	LAST YEAR TO DATE
SINGLE FAMILY	1	8	92	73
MULTI FAMILY	0	0	8	4
TOTAL	1	8	100	77

CHIEF BUILDING OFFICIAL

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: Street Performance Measure Quarterly Report FY 2023-2024 (April – June 2024)

SOURCE: Engineering and Project Management

COMMENT: The purpose of this staff report is to provide the City Council with an update on progress made on street reconstruction, overlay, micro-surfacing, and pothole repair efforts for the fourth quarter of FY 2023-2024 (April-June 2024). For Council's information, when reviewing the report, the light blue bar represents staff's estimated quantity of "work" for each category for the fiscal year. The black overlaid bar represents the quantity of work accomplished to date.

City street crews have focused mainly on street overlay, street repairs, and pothole repair efforts during this fourth quarter reporting period. The Main Street Reconstruction Project, Phase 1 (Morton Avenue to Putnam Avenue) is complete. The Villa Street Reconstruction Project (Olive Avenue to Henderson Avenue) is currently under construction. The Main Street Reconstruction Project, Phase 2A (Putnam Avenue to Garden Avenue) has been awarded. The Newcomb Street Reconstruction (Olive Avenue to Porter Slough), Villa Street Reconstruction (Henderson Avenue to Westfield Avenue), Henderson Avenue Rehabilitation (Westwood Street to Patsy Street), Union Avenue Reconstruction (Westwood Street to Plano Street), Grand Avenue (Fourth Street to Plano Street) and Henrahan Street (Grand Avenue to Morton Avenue) Reconstruction, Montgomery Avenue Reconstruction (Jaye Street to H Street), West Street Extension Improvements Project, and Date Avenue (Jaye Street to H Street) and Kessing Street (Date Avenue to River Avenue) Widening are all under design.

RECOMMENDATION: Information Only

ATTACHMENTS:
1. 2023-2024 Level of Service Progress Report 4th quarter
2. 2023-2024 Level of Service Progress Report 3rd quarter

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
2023/2024 Level of Service Report
Prepared By J. Sanchez

4th QUARTER REPORT - July 1, 2023 - June 30, 2024

Task

1 Street Reconstruction/Rehabilitation Progress
Each square represents 1000 LF of street reconsruction.
(Length represents street lanes)

4000 LF | 12000 LF | 20000 LF | 28000 LF | 36000 LF | 44000 LF | 52000 LF | 60000 LF | 68000 LF | 76000 LF | 84000 LF | 92000 LF | 100000 LF

Total FY 23/24: 22,402 Lineal Feet of Street Lanes

2. Overlay Progress
Each square Represents 500 LF of Overlayed Streets
(Length represents street lanes)

2000 LF | 6000 LF | 10000 LF | 14000 LF | 18000 LF | 22000 LF | 26000 LF | 30000 LF | 34000 LF | 38000 LF | 42000 LF | 48000 LF | 52000 LF

Total FY 23/24: 79,130 Lineal Feet of Street Lanes

3. Micro Surfacing Progress
Each square represents 1000 LF of Micro-Surfaced Streets
(Length represents street lanes)

4000 LF | 12000 LF | 20000 LF | 28000 LF | 36000 LF | 44000 LF | 52000 LF | 60000 LF | 68000 LF | 76000 LF | 84000 LF | 92000 LF | 100000 LF

Total FY 23/24: 0 Lineal Feet

4. Pothole Repair Progress
Each Square Represents 250 SF of Pothole Repair
(Each Square Represnts Approx. 250 Potholes Repaired)

2000 SF | 4000 SF | 6000 SF | 8000 SF | 10000 SF | 12000 sf | 14000 sf | 16000 sf | 18000 sf | 20000 sf | 22000 sf | 24000 sf

Total FY 23/24: 90,742 Square Feet

Total annual effort in lineal feet or square footage

Completed as of 6/30/2024

4th QUARTER REPORT - July 1, 2023 - June 30, 2024

CITY OF PORTERVILLE
2023/2024 Level of Service Report
Prepared By J. Sanchez

3rd QUARTER REPORT - July 1, 2023 - March 31, 2024

Task

1 Street Reconstruction/Rehabilitation Progress
Each square represents 1000 LF of street reconsruction.
(Length represents street lanes)

4000 LF | 12000 LF | 20000 LF | 28000 LF | 36000 LF | 44000 LF | 52000 LF | 60000 LF | 68000 LF | 76000 LF | 84000 LF | 92000 LF | 100000 LF

Total FY 23/24: 21,262 Lineal Feet of Street Lanes

2. Overlay Progress
Each square Represents 500 LF of Overlayed Streets
(Length represents street lanes)

2000 LF | 6000 LF | 10000 LF | 14000 LF | 18000 LF | 22000 LF | 26000 LF | 30000 LF | 34000 LF | 38000 LF | 42000 LF | 48000 LF | 52000 LF

Total FY 23/24: 52,716 Lineal Feet of Street Lanes

3. Micro Surfacing Progress
Each square represents 1000 LF of Micro-Surfaced Streets
(Length represents street lanes)

4000 LF | 12000 LF | 20000 LF | 28000 LF | 36000 LF | 44000 LF | 52000 LF | 60000 LF | 68000 LF | 76000 LF | 84000 LF | 92000 LF | 100000 LF

Total FY 23/24: 0 Lineal Feet

4. Pothole Repair Progress
Each Square Represents 250 SF of Pothole Repair
(Each Square Represnts Approx. 250 Potholes Repaired)

2000 SF | 4000 SF | 6000 SF | 8000 SF | 10000 SF | 12000 sf | 14000 sf | 16000 sf | 18000 sf | 20000 sf | 22000 sf | 24000 sf

Total FY 23/24: 54,925 Square Feet

Total annual effort in lineal feet or square footage

Completed as of 3/31/2024

3rd QUARTER REPORT - July 1, 2023 - March 31, 2024

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: Golf Course Quarterly Report FY 2023-2024 (April-June 2024)

SOURCE: Parks and Leisure Services

COMMENT: At the request of the City Council, staff is providing a report on participation numbers at the Golf Course for informational purposes. The report reflects the Fourth Quarter FY 2023/24.

RECOMMENDATION: Informational only

ATTACHMENTS: 1. 4th Quarter Golf Stats

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: Patrice Hildreth, City Manager

Item No.

PORTERVILLE GOLF COURSE STATISTICS

	Apr-23	Apr-24	May-23	May-24	Jun-23	Jun-24
Golfers	1997	1304	2540	1072	2397	1431
Repeat 9/Twilight	1033	489	859	359	988	556
Tickets Used	768	559	1187	450	865	575
Passes Sold	27	33	35	43	61	30
Carts	909	485	1112	384	1037	619
Total	**$22,484.00**	**$15,477.00**	**$28,479.00**	**$14,183.00**	**$30,519.00**	**$17,788.00**

*** Repeat 9:** Additional 9 rounds after first 9
*** Twilight:** Afternoon discount rate
*** Tickets:** Surcharge with monthly play pass $1.00 9-hole, $2.00 18-hole
*** Passes:** Monthly Passes sold

*Special events- (2) glow ball tournaments; Junior golf clinic with parent/child tournament
*Excessive heat was a contributing factor to the diminished numbers.
*The driving range was also under construction adding new netting which also could have contributed to less play.

SUBJECT: Community Development Block Grant Business Loan Update

SOURCE: Community Development

COMMENT: A portion of the Community Development Block Grant (CDBG) funds received by the City of Porterville from the U.S. Department of Housing and Urban Development (HUD) is allocated for economic development purposes through the Business Assistance Program (BAP), which has four components: the Large Business Revolving Loan Fund Program, the Small Business Revolving Loan Fund Program, the Microenterprise Forgivable Loan Program and the CDBG-CV Forgivable Business Loan Program. This report provides the City Council with an update regarding the status of these programs. For the year 2023-24, $143,117 was allocated to this Program.

The Business Assistance Program provides funding for projects that meet one of the three national CDBG objectives: 1) expanding economic opportunities, principally for low- and moderate-income persons; 2) aiding in the prevention or elimination of slums or blight; and 3) meeting community development needs that have a particular urgency. The BAP focuses on providing financial assistance to businesses, which will, in turn, create jobs while increasing the overall economic base of the community. Consistent with HUD's guidelines, the BAP mandates the creation or retention of one (1) job for every $35,000 in assistance. It is important to note that jobs created must be made available to individuals through an open process and do not require the applicant to have prior training. Additionally, 51% of the jobs created or retained by each CDBG-assisted business project must be filled by people of low- and moderate-income.

The objective of the City's Revolving Loan Fund (RLF) Programs is to provide "gap" funding for businesses that are either starting or expanding in Porterville. The Large Business RLF Program targets assistance with loans in excess of $50,000, is typically utilized by larger businesses, and requires Council approval for financing. The Small Business RLF Program provides funding assistance of $50,000 or less, typically assists smaller businesses, and is financed administratively.

The Large Business RLF Program currently has one (1) active loan with a total remaining balance of $20,032.47 and the available balance for lending is $15,285.36.

The Small Business RLF Program currently has three (3) active loans with a total remaining balance of $98,161.59 and the available balance for lending is $57,850.72. In 2023, one (1) small business loan was forgiven, two (2) were paid off, and three (3) are in repayment.

In response to the Coronavirus Pandemic (COVID-19), HUD granted the City of Porterville $882,536 in CDBG-CV funds to be used to Prevent, Prepare for, and Respond to COVID-19. Since the inception of the CDBG-CV Forgivable Business Loan Program, 17 forgivable loans have been approved for a total of $849,820.49. The current funds available are $48,438. The use of funds represents the creation of 22 full-time equivalent jobs and the retention of ten (10) full-time equivalent jobs. The minimum number of jobs required to be created by the program is ten (10). Several of the awarded businesses have expanded their operations after participating in the loan program, resulting in the hiring of additional employees that are not included in the count. Additionally, on February 16, 2021, the City Council approved an amendment to allocate up to $200,000 of CDBG-CV funding specifically for Non-Profit Grants for operational support. In Program Year 2022, one (1) grant was issued in the amount of $175,000 and retained five (5) jobs. The inclusion of this grant brings the total of CV-assisted businesses to 18, $1,024,820.49, and 37 retained/created jobs. In Program Year 2023, two businesses expressed an interest in CV funds. However, there are currently no active applications.

The Microenterprise Forgivable Loan Program was launched with funding in the amount of $40,000 available to new or existing microenterprise owners who have low-to-moderate income and have no more than 5 employees, of which the owner(s) is/are included in the count. Applicants may request loans in the amount of $1,000 to $10,000. Eligible uses include funding for working capital, equipment, and inventory. In Program Year 2023, two (2) microloans were funded for a total of $20,000, and the available balance for lending is $20,000.

The information stated above reflects the status of the Business Assistance Program for the fiscal year ending on July 31, 2024, and also incorporates updates to loan balances as of the writing of this report.

RECOMMENDATION: Informational Item Only

ATTACHMENTS: 1. Business Loan Summary

Appropriated/Funded:

Review By:

Department Director:
Claudia Calderon, Community Development Director

Final Approver: Patrice Hildreth, City Manager

BUSINESS ASSISTANCE PROGRAM UPDATE

CDBG Business Assistance Program (RLF)					
Loan Recipient		**Loan Amount**	**Year Issued**		**Total Outstanding Balance**
Stafford's Chocolates (Large Business)	$	70,000.00	2017	$	20,032.47
SRC Stoic Roofing Company	$	34,902.00	2020	$	26,298.98
BLC Contracting	$	50,000.00	2022	$	51,830.14
	$	**154,902.00**	LBA	$	20,032.47
			SBA	$	78,129.12
			Total	**$**	**98,161.59**

CDBG Microenterprise Loans					
Loan Recipient		**Loan Amount**	**Year Issued**		**Total Outstanding Balance**
Socorro Ivett Gudino	$	10,000.00	2023	$	10,155.05
Leticia Salas	$	10,000.00	2023	$	10,219.33
	$	**20,000.00**		$	20,374.38

CDBG COVID-19 FORGIVABLE LOANS			
Loan Recipient		**Loan Amount**	**Year Issued**
Randy's Italian Bistro (BAPCV001)	$	50,000.00	2020
Wink Boutique (BAPCV002)	$	50,000.00	2020
Living Water Clinic (BAPCV003)	$	177,580.22	2020
Wildflower Skin and Massage (BAPCV004)	$	15,642.00	2020
Hair Cuts Plus (BAPCV005)	$	33,816.27	2020
RJ's Café (BAPCV006)	$	49,938.00	2020
Storm Baby (BAPCV008)	$	35,000.00	2020
Galaxy Theatre (BAPCV009)	$	47,844.00	2020
Subway (BAPCV010)	$	50,000.00	2020
Spoons Frozen Yogurt (BAPCV013)	$	50,000.00	2020
Panaderia Los Trigales (BAPCV014)	$	35,000.00	2021
Fernandez Insurance Agency (BAPCV015)	$	35,000.00	2021
Smothermon Distribution (BAPCV16)	$	35,000.00	2021
Birria Y Pollo El Guero (BAPCV020)	$	50,000.00	2021
Alvarez Tax and Immigration Services (BAPCV022)	$	35,000.00	2022
The Anvil BBQ (BAPCV023)	$	50,000.00	2021
MS Construction (BAPCV024)	$	50,000.00	2023
	$	**849,820.49**	

CDBG CV NON PROFIT GRANTS			
Loan Recipient		**Grant Amount**	**Year Issued**
Central California Family Crisis (NPG2101)	$	175,000.00	2021
	$	**175,000.00**	

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: Charitable Car Washes Quarterly Report Calendar Year 2024

SOURCE: Finance

COMMENT: In accordance with City Council direction, staff is providing a report on charitable car wash permits issued during the year. Article VI, Section 15-30 of the City Code allows up to four car washes by a charitable organization in a calendar year. For the period of January 1 to June 30, 2024, the following car washes occurred within the city.

Date	Name of Organization	Location of Car Wash
3/30/24	Granite Hills High School Cheerleading	Granite Hills High School - 1701 E. Putnam Ave.
5/11/24	PHS Academy of Health & Sciences	Porterville High School - 465 W. Olive Ave
6/29/24	Victory Outreach Porterville	State Farm Insurance - 1331 W. Olive Ave.

RECOMMENDATION: Information Only

ATTACHMENTS:
1. Municipal Code Chapter 15 Article VI. Charitable Car Wash Permit Procedure

Appropriated/Funded:

Review By:

Department Director:
Janie Rodriguez, Finance Director

Final Approver: Patrice Hildreth, City Manager

ARTICLE VI. CHARITABLE CAR WASH PERMIT PROCEDURE

SECTION:

15-70: Definitions

15-71: Permit Required For Charitable Car Wash

15-72: Application For Permit

15-73: Issuance And Form Of Permit

15-74: Term Of Permit

15-75: Nontransferability Of Permit

15-76: Manner Of Car Wash

15-77: Fundraising As A Business

15-78: Revocation Of Permit

15-79: Violations

15-80: Car Washing As A Business

15-70: DEFINITIONS:

For purposes of this article, the following definitions shall apply:

APPLICANT: A member of a charitable organization who applies for a car wash permit on behalf of the charitable organization.

CHARITABLE: Benevolent, civil, religious, educational, fraternal, patriotic, political, philanthropic or other similar purposes.

CHARITABLE CAR WASH: A temporary vehicle washing operation conducted by members of a charitable organization for organization fundraising purposes. It shall not be deemed to include the operation of an authorized permanent vehicle washing business or service station authorized to wash vehicles on its premises, although a car wash, as defined above, may be conducted on such premises.

CHARITABLE ORGANIZATION: Means and includes an organization which is a duly organized governmental or not for profit charitable, religious, civic, patriotic or community service organization; and the organization must have a tax exempt identification number assigned to it.

PERMIT HOLDER: The charitable organization who has been granted a permit pursuant to this article for the purpose of conducting a charitable car wash.

PERSON: Any individual, firm, partnership, corporation, company, association, society, organization, church, congregation, assembly or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

RELIGIOUS OR RELIGION: Has the meaning established by the supreme court of the state or the supreme court of the United States.

RESIDENTIAL PROPERTY: A building designed for or occupied by one or more families as a residence including single-family residences, duplexes and apartments. (Ord. 1669 § 1, 6-21-2005)

15-71: PERMIT REQUIRED FOR CHARITABLE CAR WASH:

A. It is unlawful for any person to engage, directly or indirectly, in a charitable car wash without first obtaining a valid charitable car wash permit pursuant to the provisions of this article.

B. The permit application shall include a written application to sponsor the charitable car wash by the owner or lessee of the property upon which the car wash is to be held.

C. The car wash permit issued under this article to a charitable organization must be prominently displayed at the location where the car wash is conducted and shall be removed at the completion of the car wash. (Ord. 1669 § 1, 6-21-2005)

15-72: APPLICATION FOR PERMIT:

A. Applications for charitable car wash permits shall be made to the finance department upon forms prescribed by the city. The application shall be declared under penalty of perjury and filed with the finance department not less than five (5) consecutive business days prior to the time at which the applicant wishes to conduct said car wash.

B. A nonrefundable application fee an amount to be set by resolution shall be paid by the applicant. The application fee shall be based solely upon the administrative costs in processing the application and issuing the permits.

C. Such applications shall contain the following information and documentation:

1. The full name, mailing address, principal business and telephone number of the charitable organization or institution, the names and addresses of the organization's or institution's principal officers and executives, and the address of the national, state and local headquarters, if any.

2. The name and address of the sponsor, with a statement by the sponsor that he/she is the owner or lessee of the property where the car wash is to be held or is an employee or agent of the owner or lessee who has been delegated control of the premises by the owner or lessee, and that the sponsor assumes all liability regarding the car wash.

3. The full name and address of the person or persons who will be in charge of conducting the car wash. The names and addresses of each individual who will actually be engaged in the car wash shall be on file at the agency/organization conducting the car wash and shall be made available to the city police department upon request at any time.

4. The time when such car wash will be held, including preferred date and hours of the day for commencement and termination of the car wash.

5. A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement of the charitable organization by the city or any department or officer thereof.

6. Proof evidencing that the permit holder is a bona fide charitable organization.

7. The number of car washes that have been held by the charitable organization in that particular calendar year, and the number of car washes that have been held at that particular location in that particular calendar year.

8. Such supplemental information requested by the finance department as the finance department may require. The finance department may require that such information be updated during the time the permit is in force if changes occur subsequent to filing of the application in the planned dates and locations for the charitable car wash.

D. If, while the application is pending or during the term of any permit granted, there is a change in fact, policy or method that would alter the information to be given on the application, the applicant shall notify the finance director in writing thereof prior to five o'clock (5:00) P.M. the day before such change.

E. The application documents shall be available for public inspection. (Ord. 1669 § 1, 6-21-2005)

15-73: ISSUANCE AND FORM OF PERMIT:

A. The finance department shall issue the permit, unless it finds that:

1. Any statement made in the application is factually incorrect, and the applicant fails to correct the application after being requested to do so.

2. The applicant has not provided the information required by this article and fails to provide the missing information after being requested to do so.

3. The application indicates that the proposed car wash will violate any of the requirements of this article and the applicant fails to amend the application to indicate compliance with said section after being requested to do so.

4. The number of charitable car washes by the charitable organization applying for said permit exceeds four (4) in a calendar year, or the number of charitable car washes held at a particular location exceeds four (4) per calendar year. The location requirement shall not pertain to licensed commercial car washes.

5. The applicant has violated any of the provisions of this article within one year of the date the application is submitted, resulting in the imposition of a fine or the revocation of a prior permit.

B. Nothing set forth in this article shall be construed as granting to the finance department or any other person the authority to grant, deny, suspend, revoke or renew any permit by reason of disapproval or agreement with the philosophy, opinion or belief of the applicant, permit holder or person soliciting therefor, or for any other reason not specifically provided for in this article.

C. The finance department shall either issue or deny the requested permit within two (2) consecutive business days after the date the application is made. In the event of denial, the finance department shall give the applicant a written notice which states with specificity the reasons therefor. In the event the finance department fails to act within the time prescribed, the permit shall be deemed issued.

D. The permit, if issued, shall include the following information:

1. The name and address of the permit holder;

2. The date for which the permit is valid;

3. A statement that the permit does not constitute an endorsement by the city, or any of its departments, officers or employees, of the purpose of the car wash;

4. A permit number; and

5. The signature of the finance director or his/her designee. (Ord. 1669 § 1, 6-21-2005)

15-74: TERM OF PERMIT:

Permits issued under this article shall be valid only for the date specified in the application for the car wash and as stated on the permit. (Ord. 1669 § 1, 6-21-2005)

15-75: NONTRANSFERABILITY OF PERMIT:

No permit issued under this article shall be transferred or assigned, and any attempt at assignment or transfer shall be void. (Ord. 1669 § 1, 6-21-2005)

15-76: MANNER OF CAR WASH:

A. Car washes held pursuant to permits under this article:

1. Shall take place between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M.

2. Shall be conducted for a one day period only.

3. Shall not be conducted by any person under the age of sixteen (16) years, unless supervised by an adult.

4. Shall not be conducted at any house, apartment or other dwelling nor an area zoned for residential use only.

5. Shall be conducted in an area zoned for commercial uses; and such location shall have a means of collecting the wash water and shall discharge the water to the city sewer collection system.

6. Shall use biodegradable soaps or detergents, and shall not violate any of the provisions of chapter 25 of this code, concerning wastewater discharge requirements.

7. Shall have a means in place to limit wastewater or runoff such as pistol grip nozzle or similar apparatus affixed to each garden hose or water source.

8. Shall not allow any person to solicit cars or other contributions from a position in or on any public right of way, including, but not limited to, sidewalks, traffic islands, driveways or the like as to endanger that individual

or others.

9. Shall not be conducted at any commercial property which has held four (4) prior car washes in the calendar year (excluding licensed commercial car wash locations).

10. Shall take place at a distance of more than twenty five feet (25') from the street curb, or from the near edge of the travel lane or lanes of any uncurbed street or road.

11. Shall utilize temporary signs, if any signs are utilized, in compliance with the city's applicable regulations concerning temporary signs.

12. Shall not be conducted by a charitable organization which has held four (4) prior car washes in the calendar year. Four (4) applications per tax exempt identification number, and four (4) permits per tax exempt identification number, will be allowed in the calendar year.

B. It is unlawful for a "permit holder", as defined herein, to:

1. Refuse to provide their name and a copy of the permit issued under this article, if requested by city representatives.

2. Misrepresent their identity or the identity of the charitable organization conducting the charitable car wash for which he or she is an agent.

3. Misrepresent that the charitable car wash permit issued under this article is an endorsement by the city, or any department or employee thereof, of the charitable car wash. (Ord. 1669 § 1, 6-21-2005)

15-77: FUNDRAISING AS A BUSINESS:

An organization in the business of fundraising (seeking a profit and paying its solicitors), even if engaged by a nonprofit organization, must comply with this article. If such an organization is soliciting on behalf of a nonprofit organization, the nonprofit organization shall obtain a permit pursuant to this article. (Ord. 1669 § 1, 6-21-2005)

15-78: REVOCATION OF PERMIT:

Any violation of this article by applicant or permit holder shall be cause for revocation of a permit issued pursuant to this article. Upon determination by an authorized representative of the city that a car wash is being conducted without a valid permit or in violation of the requirements of this article, said unlawful activity shall cease immediately, and all persons associated with said car wash shall be dispersed within one hour after the giving of said notice. Failure or refusal by the charitable organization and/or the owner/sponsor to cause a car wash in violation of these regulations to cease operations, after receiving such notification from the city official, shall constitute a separate violation of this article. Furthermore, any organization that violates this article shall be ineligible for the issuance of a permit for a period of one year. (Ord. 1669 § 1, 6-21-2005)

15-79: VIOLATIONS:

Every person who, for himself or herself, or as the agent of another, commences, engages in or conducts a car wash as provided in this article without procuring the permit as required under this article or who fails to comply with the conditions of this article shall be guilty of an infraction punishable by:

A. A fine not exceeding one hundred dollars ($100.00) for a first violation;

B. A fine not exceeding two hundred dollars ($200.00) for a second violation within one year; and

C. A fine not exceeding five hundred dollars ($500.00) for each additional violation within one year. (Ord. 1669 § 1, 6-21-2005)

15-80: CAR WASHING AS A BUSINESS:

This article is expressly limited to charitable car washes. Any person, corporation, business or other entity who wishes to hold impromptu or temporary car washes on a for profit basis must comply with all city, county and state licensing or permitting requirements and does not fall within this article. (Ord. 1669 § 1, 6-21-2005)

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: City Council Member Appointments Attendance Quarterly Report FY 2023-2024 (April - June 2024)

SOURCE: Administrative Services

COMMENT: At its meeting on January 21, 2020, the City Council directed that staff prepare a quarterly report on Council Member attendance at meetings of boards and committees to which Council Members are appointed. This report represents attendance at meetings during the third quarter of FY 2023-2024 (April through June 2024).

RECOMMENDATION: Informational Only

ATTACHMENTS: 1. FY 2023-24 4th Qtr Attendance Report

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager

City Council Attendance - FY 2023-2024 Fourth Quarter Report

April 1, 2024 through June 30, 2024

Committee/Board	Member/Alternate	April	May	June
Ad Hoc Committee- COVID-19	Kellie Carrillo-Member Greg Meister - Member			
Ad Hoc Committee - General Plan	Don Weyhrauch - Member Kellie Carrillo - Member			
Ad Hoc Committee - Military banner	Kellie Carrillo	4/24 P		
Ad Hoc Committee - Proposition 64 Regulation of Marijuana	Don Weyhrauch - Member Raymond Beltran - Member			6/25 P
Ad Hoc Library Facility Planning Committee	Kellie Carrillo - Member		5/16 P	
Ad Hoc Committee - Provision of Local Water Services	Kellie Carrillo - Member Raymond Beltran - Member			
Council of Cities	Martha Flores - Member Greg Meister - Member		5/15 P	
Eastern Tule Groundwater Sustainability Agency JPA (ETGSA)	Don Weyhrauch - Member Asst City Manager Knight	4/4 P	5/23 P	6/6 P
Flag Day Committee	Greg Meister- Member	4/18 A	5/7 P & 5/21 P	6/11 P
Internal City Audit Committee	Martha Flores - Member Kellie Carrillo - Member	4/24 P		6/26 P
Joint City/School District Committee	Kellie Carrillo - Member Greg Meister - Member			
Local Initiatives Navigation Center Committee (LINC)	Raymond Beltran - Member Claudia Calderon -Alternate	4/3 P		6/5 P & 6/12 P
Mighty190 Committee	Kellie Carrillo - Member Greg Meister - Member			
Porterville Area Development Authority (PADA)	Don Weyhrauch - Member Raymond Beltran - Member	4/5 P 4/5 P		
PDC Advisory Board	Patrice Hildreth - Member Martha Flores - Alternate			
San Joaquin Valley Special City Selection Committee	Don Weyhrauch - Member Greg Meister - Alternate			
San Joaquin Valley REAP Committee	Martha Flores- Member			
Tulare County Association of Governments/Tulare County Transportation Authority (TCAG/TCTA)	Martha Flores - Member Greg Meister - Alternate	4/15 C	5/20 P	6/17 P
Tulare County Association of Governments (TCAG) - Sustainable Corridors Committee	Martha Flores - Member Deputy City Manager Ridenour		5/30 P	
Tulare County City Selection Committee	Martha Flores -Member Designee - Alternate			
Tulare County Economic Development Corporation (TCEDC)	Martha Flores - Member City Manager Hildreth	4/18 A	5/22 P	6/26 P
Tulare County Regional Transit Agency (TCRTA)	Don Weyhrauch - Member Raymond Beltran - Alternate City Manager Hildreth	4/22 P	5/20 P	6/26 P
Tulare County Taskforce on Homelessness	Martha Flores - Member Claudia Calderon - Alternate	4/17 P	5/15 P	6/19 C
Tulare County Water Commission	Martha Flores - Member	4/8 P	5/13 P	6/10 P
Tule River Improvement JPA	Don Weyhraruch - Member Asst City Manager Knight			

P = Present A = Absent C= Cancelled

CITY COUNCIL AGENDA – AUGUST 6, 2024

SUBJECT: City Commission and Committee Attendance Quarterly Report FY 2023-2024 (April - June 2024)

SOURCE: Administrative Services

COMMENT: Staff herein provides for the City Council's information the attendance reports as of the fourth quarter FY 2023-2024 for the following City Commissions and Committees:

- Animal Control Commission
- Arts Commission
- Library & Literacy Commission
- Parks & Leisure Services Commission
- Transactions & Use Tax Oversight Committee
- CDBG Advisory & Housing Opportunity Committee

RECOMMENDATION: Information Only

ATTACHMENTS:

1. Animal Control Commission
2. Arts Commission
3. Library & Literacy Commission
4. Parks and Leisure Services Commission
5. Transactions and Use Tax Oversight Committee
6. CDBG Advisory and Housing Opportunities Committee

Appropriated/Funded:

Review By:

Department Director:
Yuliana Andrade, Administrative Services Director

Final Approver: Patrice Hildreth, City Manager

Item No.

Animal Control Commission
Attendance Records

As of June 30, 2024

	2023 13-Jul	2023 12-Oct	2024 11-Jan	2024 11-Apr	2024	2024	2024	*Notes:*
Kathy Guinn	P	**A**	*	P				
Jerry Hall	P	P	*	P				
Kat Harris	P	P	*	P				
Shawn Schwartzenberger	P	**A**	*	P				
Lacy Goodlett	P	P	*	**A**				

*Meeting cancelled due to lack of quorum.
**Meeting cancelled due to holiday and/or scheduling.

	2022 May	2022 June	2022 July	2022 11-Aug	2022 13-Oct	2023 12-Jan	2023 13-Apr	*Notes:*
Kathy Guinn	*	*	*	P	P	P	P	
Jerry Hall	*	*	*	**A**	P	P	P	
Art Duron	*	*	*	P				
Kat Harris	*	*	*	P	P	P	P	
Shawn Schwartzenberger		*	*	P	**A**	P	P	
Lacy Goodlett					P	P	P	

*Meeting cancelled due to lack of quorum.
**Meeting cancelled due to holiday and/or scheduling.

	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	*Notes:*
Florenza Pizanis	*	*	*	*	*	*		
Jerry Hall	*	*	*	*	*	*		
Kathy Guinn	*	*	*	*	*	*		
Kat Harris	*	*	*	*	*	*		
Art Duron	*	*	*	*	*	*		

*Meeting cancelled due to lack of quorum.
**Meeting cancelled due to holiday and/or scheduling.

	2021 Mar	2021 Apr	2021 May	2021 June	2021 July	2021 Aug	2021 Sept	*Notes:*
Florenza Pizanis		P	P	**	**	P		
Jerry Hall		P	A	**	**	**A**		
Kathy Guinn		P	P	**	**	P		
Kat Harris		P	P	**	**	P		
Art Duron		A	A	**	**	P		

*Meeting cancelled due to lack of quorum.
**Meeting cancelled due to holiday and/or scheduling.

Arts Commission
Attendance Records

As of June 30, 2024

	2023 25-Jul	2023 24-Oct	2024 23-Jan	2024 19-Apr	2024 23-Apr	2024	2024	2024	
Kyree Perkins	*	*	P	P	P				
Emily Luna	*	*	P	P	P				
Maria Menga	*	*	**A**	**A**	**A**				
Dawn Bennett									*Vacated seat 7/23*
Emilie Dummar		*	P	**P**	P				

** No meeting held due to lack of quorum.* *** No meeting due to scheduling.*

	2022 Apr	2022 May	2022 June	2022 July	2022 Aug	2022 Oct	2023 Jan	2023 April	
Kyree Perkins	P	P	P	**	P	*	P	P	
Emily Luna	P	P	P	**	P	*	P	P	
Diego Monterrubio	**A**	**A**	**A**	**	**A**	*	**A**		
Eden Santos	**A**	**A**	P	**					*Vacated seat 8/22*
Maria Menga	P	P	P	**	P	*	P	P	
Dawn Bennett							P	P	

** No meeting held due to lack of quorum.* *** No meeting due to scheduling.*

	2020 Aug	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	
Kyree Perkins	*P	**	P	*P	P	P	P	P	
Emily Luna	*P	**	P	*P	P	P	P	P	
Diego Monterrubio	***A**	**	**A**	***A**	**A**	**A**	**A**	**A**	
Eden Santos	*A	**	P	***A**	P	P	**A**	**A**	
Maria Menga		**	P	***A**	P	P	P	P	

** No meeting held due to lack of quorum.* *** No meeting due to scheduling.*

	2020 Dec	2021 Jan	2021 Feb	2021 Mar	2021 Apr	2021 May	2021 June	2021 July	
Vacant	No meetings held due to COVID.							**	
Kyree Perkins					*P	*P	*A	**	
Emily Luna					*P	*P	*A	**	
Diego Monterrubio					*A	*A	*A	**	
Eden Santos					*A	*A	*P	**	
(Student) vacancy								**	

** No meeting held due to lack of quorum.* *** No meeting due to scheduling.*

	2020 April	2020 May	2020 June	2020 July	2020 Aug	2020 Sept	2020 Oct	2020 Nov	
Vacant	No meetings held due to COVID-19.								
Kyree Perkins									
Emily Luna									
Diego Monterrubio									
David Mason									
(Student) vacancy									

LIBRARY & LITERACY COMMISSION - Attendance Record As of June 30, 2024

P = Present; A = Absent; E = Excused absence; T = Tardy

= Summer Hiatus

** = No meeting held

	2024 Apr	2024 May	2024 June	2024 July	2024 Aug	2024 Sept	2024 Oct	2024 Nov	2024 Dec	2025 Jan	
Kim Baumgardner	P	P									
Esther Figueroa	P	P									
Edith LaVonne	P	T									
Susan Uptain	A	P									
Fernando Serrano	P	A									
Sonya Lopez	P	P									
Irene Ortega	P	P									

**Attended via Zoom as non-voting member.*

	2023 June	2023 July	2023 Aug	2023 Sept	2023 Oct	2023 Nov	2023 Dec	2024 Jan	2024 Feb	2024 Mar	
Kim Baumgardner				P	P	P	P	P	P	P	
Patience Christenson				E							Resigned 9/23
Esther Figueroa				P	P	P	P	P	P	P	
Edith LaVonne				P	P	P	P	P	P	P	
Susan Uptain				E	P	P	P	E	E	A	
Fernando Serrano				P	P	P	P	P	P	P	
Sonya Lopez				P	P	P	P	P	P	P	
Irene Ortega						P	P	P	P	P	

**Attended via Zoom as non-voting member.*

	2022 Aug	2022 Sept	2022 Oct	2022 Nov	2022 Dec	2023 Jan	2023 Feb	2023 Mar	2023 Apr	2023 May	
Kim Baumgardner	P	P	P	P	E	P	P	P	P	P	
Patience Christenson	P	P	E	E	E	P	P*	**A**	**A**	P	
Esther Figueroa	P	P	P	P	P	P	P	P	P	P	
Edith LaVonne	P	P	P	P	P	P	P	P	P	P	
Susan Uptain	P	P	P	P	P	P	P	**A**	**A**	P	
Fernando Serrano			P	P	P	P	P	**A**	**A**	P	
Sonya Lopez			P	P	P	P	P	P	P	P	

**Attended via Zoom as non-voting member.*

	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June	2022 July	
Catherine May	P	P	P	P	P	P	P	P			
Esther Figueroa	P	P	P	P	P	P	P	P			
Edith La Vonne	P	P	P	P	P	P	P	P			
Patience Christenson	P	E	P	E	P	P	P	P			
Kim Baumgardner	P	P	P	P	P	P	P	P			
Susan Uptain	P	P	P	E	P	P	P	P			
Leslie Pelon	P										
Karen Stover		P	P	P	P	P	E	P			

PARKS & LEISURE SERVICES COMMISSION
ATTENDANCE RECORDS

As of June 30, 2024

Parks & Leisure Services Commissioner's Record of Attendance

	2023 July	2023 Aug	2023 Sept	2023 Oct	2023 Nov	2023 Dec	2024 Jan	2024 Feb	2024 Mar	2024 Apr	2024 May	2024 June
Phillip Duncan	**	**	P	P	P	E	**A**	E				
Diane Graybehl	**	**	P	P	P	P	P	P	E	P	P	**
Kieran Daly	**	**	P	E	P	E	P	P	P	P	P	**
Janet Uresti	**	**	P	P	P	P	E	P	P	P	P	**
Tom Fiormonti	**	**	P	**A**								
Jason Gurrola	**	**	P	P	P	P	E	P	P	**A**	P	**
Jason Pommier	**	**	P	P	P	P	P	P	P	P	P	**
Blaine Smotherman								P	P	P	P	**
Arlene Pena	**	**	**A**	P	P	P	P	P	P	P	P	**

**No meeting held. * Due to lack of quorum, an informal discussion only took place.

P = Present; E = Excused Absence; A = Absent; T = Tardy

Parks & Leisure Services Commissioner's Record of Attendance

	2022 July	2022 Aug	2022 Sept	2022 Oct	2022 Nov	2022 Dec	2023 Jan	2023 Feb	2023 Mar	2023 Apr	2023 May	2023 June
Phillip Duncan	**	**	P	**A**	P	E	E	P	P	E	P	**A**
Diane Graybehl	**	**	E	P	P	P	P	P	E	P	P	E
Kieran Daly	**	**	P	P	**A**	P	P	P	P	P	E	P
Janet Uresti	**	**	P	P	P	P	P	P	P	**A**	P	P
Tom Fiormonti	**	**	P	P	P	P	P	E	P	P	P	E
Jason Gurrola	**	**	E	P	P	**A**	**A**	P	P	P	P	P
Jason Pommier	**	**	P	P	E	P	P	P	E	P	P	P
Arlene Pena	**	**	P	**A**	P	P	P	P	E	**A**	**A**	**A**

**No meeting held. * Due to lack of quorum, an informal discussion only took place.

P = Present; E = Excused Absence; A = Absent; T = Tardy

Parks & Leisure Services Commissioner's Record of Attendance

	2021 July	2021 Aug	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June
Phillip Duncan	**	**	P	P	P	**	P	E	P	P	P	**A**
Diane Graybehl	**	**	P	P	P	**	P	P	P	P	P	P
Kieran Daly	**	**	P	P	P	**	**A**	E	P	P	P	P
Janet Uresti	**	**	P	P	E	**	P	P	P	P	P	P
Tom Fiormonti	**	**	P	P	P	**	P	P	P	P	P	P
Jason Gurrola	**	**	P	P	E	**	P	P	P	E	P	P
Jason Pommier	**	**	P	P	P	**	P	P	P	P	P	P
Arlene Pena		**	P	P	P	**	**A**	P	P	P	P	P

**No meeting held. * Due to lack of quorum, an informal discussion only took place.

P = Present; E = Excused Absence; A = Absent; T = Tardy

Transactions and Use Tax Oversight Committee As of June 30, 2024
Attendance Records

	2024 28-May							
Margaret Stinson	P							*Apptd 05/21;Term exp 5/2028*
John Billiou	P							*Term expires 5/2026*
Jerry Hall	P							*Term expires 5/2026*
Janice Kovars	P							*Term ended*
Shawn Byars	P							*Term expires 5/2026*
Joshua Sulier	**A**							*Term ended*
Angela Dennis	**A**							*Term ended*
Rae Dean Strawn	**A**							*Apptd 07/19; Term exp 5/2026*
Robert K. Falls Sr.	P							*Apptd 05/21; Term exp 5/2028*

** Meeting cancelled*

	2022 25-Aug	2022 17-Nov	2023 16-Feb	2023 25-May	2023 24-Aug	2023 28-Nov	2024 27-Feb	
John Simonich	P	P	**A**	P	P	**A**	P	*Resigned eff. 02/28/2024*
Margaret Stinson	P	P	P	P	P	**A**	P	*Term expires 5/2024*
John Billiou	P	P	**A**	P	P	P	**A**	*Term expires 5/2026*
Jerry Hall	P	P	P	P	P	P	P	*Term expires 5/2026*
Janice Kovars	P	P	P	P	P	**A**	P	*Term expires 5/2024*
Shawn Byars	P	**A**	P	**A**	P	P	P	*Term expires 5/2026*
Joshua Sulier	**A**	P	P	P	P	P	**A**	*Term expires 5/2024*
Angela Dennis	P	**A**	P	**A**	**A**	P	P	*Apptd 12/20; Term exp 5/2024*
Rae Dean Strawn	P	P	**A**	P	**A**	P	P	*Apptd 07/19; Term exp 5/2026*
Robert K. Falls Sr.	**A**	P	P	P	P	**A**	P	*Apptd 07/19; Term exp 5/2024*

** Meeting cancelled*

	2020 23-Sep	2020 18-Nov	2021 26-May	2021 25-Aug	2021 17-Nov	2022 24-Feb	2022 19-May	
John Simonich	P	P	P	P	**A**	P	P	*Term expires 5/2026*
Margaret Stinson	P	P	P	P	P	P	P	*Term expires 5/2024*
Russell "Buck" Fletcher	**A**	P	P	**A**	**A**	**A**	**A**	*Term ended*
John Billiou	P	P	P	P	P	P	P	*Term expires 5/2026*
Jerry Hall	**A**	P	**A**	**A**	P	P	P	*Term expires 5/2026*
Janice Kovars	P	P	P	P	**A**	P	P	*Term expires 5/2024*
Shawn Byars	P	**A**	P	P	P	P	P	*Term expires 5/2026*
Joshua Sulier	P	P	P	P	P	P	P	*Term expires 5/2024*
Angela Dennis			P	P	P	P	P	*Apptd 12/20; Term exp 5/2024*
Rae Dean Strawn								*Apptd 07/19; Term exp 5/2026*
Robert K. Falls Sr.								*Apptd 07/19; Term exp 5/2024*

** Meeting cancelled*

CDBG Citizens' Advisory and Housing Opportunity Committee
Attendance Records

As of June 30, 2024

Committee Member	Reg. Mtg 3/4/2020	Reg. Mtg 2/25/2021	Reg. Mtg 3/14/2022	Reg. Mtg 2/28/2023	Reg. Mtg 2/29/2024
Pat Contreras	P	P	P	P	P
Linda Mendez	P	P	P	A	P
Grace Munoz-Rios	P				
Doug Heusdens	A	A	A		
Rebecca Vigil	A	A	P		
Kelle Jo Lowe	P	P			
Maria Gonzalez	P				
Eriselda Lizarraga		P	A	A	A
Isabel Olmos			P	P	P
Rebecca Contreras			P	P	P
Yalimar Garcia				P	P
Jacqueline Verduzco Alanis				P	P

* No meeting was held due to COVID.

Committee Member	Reg. Mtg 4/27/2015	Reg. Mtg 3/28/2016	Reg. Mtg 3/1/2017	Reg. Mtg 2/28/2018	Reg. Mtg 2/26/2019
Pat Contreras	P	A	P	P	P
Linda Mendez	P	A	P	P	A
Grace Munoz-Rios	P	P	P	P	P
Doug Heusdens	P	P	P	P	A
Rebecca Vigil	P	P	A	P	P
Kelle Jo Lowe	P	P	P	P	P
Maria Gonzalez	P	A	P	P	P

Committee Member	Year Originally Appointed	Reg. Mtg 3/14/2011	Reg. Mtg 3/12/2012	Reg. Mtg 3/11/2013	Reg. Mtg 3/10/2014
Pat Contreras	1988	P	P	P	P
Linda Olmedo	1997	P	P	P	P
Grace Munoz-Rios	1992	P	P	P	A
Doug Heusdens	2012	N/A	P	P	P
John Dennis	1998	P	P	A	P
Rebecca Vigil	2008	P	P	A	P
Kelle Jo Lowe	2009	P	P	P	P

This Committee typically meets on an annual basis in February or March.

SUBJECT: Approval of Draft Minutes of July 16, 2024

SOURCE: Administrative Services

COMMENT: Presented for Council's approval are the draft Minutes of July 16, 2024.

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

ATTACHMENTS: 1. Draft Minutes of 07-16-2024

Appropriated/Funded:

Review By:

Department Director:
Yuliana Andrade, Administrative Services Director

Final Approver: Fernando Gabriel-Moraga, Acting Chief Deputy City Clerk

CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
JULY 16, 2024, 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, Mayor Martha A. Flores

Absent: Vice Mayor Kellie Carrillo

ORAL COMMUNICATIONS

- Josh Flowers, Strathmore, recommended a cautious approach to the selection of a City Manager, advocating for the implementation of a salary survey before making any decisions.
- Ed McKervey, Porterville, indicated his belief that the selection process for a new City Manager should commence after the completion of the November elections.
- AJ Rivas, Porterville, supports the conduction of a salary survey for the City Manager position.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 260-187-001. Agency Negotiator: Patrice Hildreth and Jason Ridenour. Negotiating Parties: City of Porterville and Habitat for Humanity. Under Negotiation: Terms and Price.

2 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: Patrice Hildreth and Yuliana Andrade. Employee Organization: Porterville Peace Officers Association.

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

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

5 - Government Code Section 54956.9(d) (3) – Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation: Two (2) cases in which facts are not yet known to Potential Plaintiff.

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

7 - Government Code Section 54957 – Public Employment: City Manager.

6:32 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION TAKEN IN CLOSED SESSION

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

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

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

Documentation: M.O. 01-071624
Disposition: Claim rejected.

A-4. On a MOTION made by Council Member Weyhrauch, and SECONDED by Council Member Meister the City Council unanimously rejected the claim filed by Vanessa Sousa.

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

Documentation: M.O. 02-071624
Disposition: Claim rejected.

The Pledge of Allegiance was led by Council Member Weyhrauch.

Invocation – a member of the public came forward and gave an invocation, and a moment of silence was observed.

PRESENTATIONS

Employee Service Awards

- Yuriko Velarde – 5 Years of Service
- Joshua Maniss – 10 Years of Service
- Alvaro Espinoza – 15 Years of Service
- Mark Azevedo – 20 Years of Service
- Carl Jordan – 25 Years of Service

Tulare County Economic Development Corporation – Year End Presentation
General Plan – Environmental Justice and Health and Safety Elements

ORAL COMMUNICATIONS

- Ed McKervey, Porterville, emphasized that the city's ability to address Environmental Justice would be greatly enhanced upon the completion of the Tule River Parkway.

- Brock Neeley, Porterville, played an audio file from a public meeting that was conducted.
- John Duran, Porterville, expressed concern about the outdoor shower facilities at the Porterville Armory and mentioned the need to clean up trash at a location on Main Street.
- Santiago Martinez, Porterville, stated that the city needs to address the homeless situation.
- Ryan Leasure, Porterville, provided the Council with the Porterville Chamber of Commerce updates.
- Josh Flowers, Strathmore, spoke of his concerns for the well-being of the community.

REPORTS

I. City Commission and Committee Meetings

1. Parks & Leisure Services Commission - (Summer Hiatus)

2. Library & Literacy Commission - (Summer Hiatus)

3. Arts Commission – no report was provided.

4. Animal Control Commission - July 11, 2024 – no report was provided.

5. Youth Commission - (Summer Hiatus)

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

II. Staff Informational Reports

1. Informational Report Regarding Fourth of July Fireworks Enforcement

2. Water Conservation Phase IV Status Update - June 2024

CONSENT CALENDAR

Item No. 19 was pulled for further discussion by Council Member Weyhrauch, and Item No. 36 was pulled by Council Member Meister. Mayor Flores reported conflicts of interest with Item No. 27, and Council Member Weyhrauch reported a conflict of interest with Item No. 29, all related to real property.

COUNCIL ACTION: MOVED by Mayor Flores, SECONDED by Council Member Meister that the City Council approve Items Nos. 1-18, and 20-35. The motion carried unanimously.

1. APPROVAL OF DRAFT MINUTES OF JUNE 18, 2024

Recommendation: That the Council approve the draft Minutes of June 18, 2024.

Documentation: M.O. 03-071624
Disposition: Approved.

2. RATIFICATION OF EMERGENCY EXPENDITURE - AC UNIT - SHERIFF DEPARTMENT AIRPORT HANGER

Recommendation: That the City Council ratify the emergency purchase of an AC unit in the amount of $10,700, plus any applicable sales tax, for the city-owned airport hanger occupied by the Sheriff Department.

Documentation: M.O. 04-071624
Disposition: Approved.

3. AUTHORIZATION TO REPLACE POLICE VEHICLE

Recommendation: That the City Council:
1. Authorize staff to purchase one police vehicle for $48,760.00; and
2. Authorize payment upon satisfactory delivery of the vehicle.

Documentation: M.O. 05-071624
Disposition: Approved.

4. PURCHASE OF POLICE VEHICLES - SPECIAL METHODS AND RESOURCES TEAM

Recommendation: That the City Council;
1. Authorize staff to locate and negotiate for the purchase of three (3) 2024 Chevrolet Silverado Trucks and one (1) 2024 Chevrolet Tahoe up to a total cost not to exceed $240,000, which is based on the Manufacturer's Suggested Retail Price plus tax, license, and applicable fees, as well as upfit of emergency equipment. Due to the unique purchasing parameters requested, staff is further requesting a ten percent (10%) contingency for the total purchase; and

2. Authorize Department staff to negotiate the purchase of four (4) APX 6500 unit radios from J's Communications for $22,216.62; and
3. Authorize Department staff to negotiate the purchase of four (4) Dell Latitude 7230 tablet MDT's from Dell for $15,462.40; and
4. Authorize Department staff to negotiate the upfit of the new vehicles by County of Tulare IT Radio Comm. for $39,867.62; and
5. Authorize payment to respective vendors upon receipt of listed equipment.

Documentation: M.O. 06-071624
Disposition: Approved.

5. AUTHORIZATION TO PURCHASE SPECIALIZED EQUIPMENT - AMMONIA/TKN ANALYZER

Recommendation: That the City Council:
1. Approve the purchase of an analyzer from Xylem Inc.& EZKem for an amount not to exceed $41,596.35, which includes the analyzer, installation, training, taxes, freight, and a ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order to Xylem Inc.& EZKem for an amount not to exceed $41,596.35, which includes the analyzer, installation, training, taxes, freight, and a ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Xylem Inc.& EZKem upon receipt of an invoice approved by the Public Works Director.

Documentation: M.O. 07-071624
Disposition: Approved.

6. AUTHORIZATION TO PURCHASE COMPONENTS TO REPAIR/UPGRADE THE TRAFFIC SIGNAL AT WESTWOOD STREET AND OLIVE AVENUE

Recommendation: That the City Council:
1. Approve the purchase of video detection system components from Econolite for an amount not to exceed $57,074, which includes the components, taxes, and a ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order to Econolite for an amount not to exceed $57,074, which includes the components, taxes, and a ten percent (10%) contingency; and

3. Direct the Finance Director to make payment to Econolite upon receipt of an invoice approved by the Public Works Director.

Documentation: M.O. 08-071624
Disposition: Approved.

7. AUTHORIZATION FOR REPAIR OF STREETS LOADER

Recommendation: That City Council:
1. Authorize loader H-frame replacement by Quinn Caterpillar at a cost not to exceed $37,914 (inclusive of all parts, taxes, labor, and a 10% contingency); and
2. Authorize payment of said repair upon satisfactory completion.

Documentation: M.O. 09-071624
Disposition: Approved.

8. AUTHORIZATION TO REPAIR EFFLUENT OUTFALL LINE

Recommendation: That City Council:
1. Award the purchase of repair parts to Ferguson Waterworks for an amount not to exceed $12,201.37 which includes the parts, freight, taxes, and ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order to Ferguson Waterworks for an amount not to exceed $12,201.37 which includes parts, freight, taxes, and ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Ferguson Waterworks upon receipt of the invoice approved by the Public Works Director.

Documentation: M.O. 10-071624
Disposition: Approved.

9. AUTHORIZATION FOR WATER DEPARTMENT SERVICE TRUCK ENGINE REPLACEMENT

Recommendation: That the City Council:
1. Authorize a service truck engine replacement by Porterville Automotive at a cost not to exceed $13,756 (inclusive of all parts, taxes, labor, and a 10% contingency); and
2. Authorize payment to Porterville Automotive upon satisfactory completion of said engine replacement.

Documentation: M.O. 11-071624

Disposition: Approved.

10. AUTHORIZATION TO UPGRADE SUPERVISORY CONTROL AND DATA ACQUISITION EQUIPMENT

Recommendation: That the City Council:
1. Award the purchase of the SCADA upgrade to Telstar Instruments for an amount not to exceed $234,185, which includes software, parts, prevailing wage labor, freight, taxes, and ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order to Telstar Instruments for an amount not to exceed $234,185, which includes software, parts, prevailing wage labor, freight, taxes, and ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Telstar Instruments upon receipt of an invoice approved by the Public Works Director.

Documentation: M.O. 12-071624
Disposition: Approved.

11. AUTHORIZATION TO PURCHASE BY NEGOTIATION EQUIPMENT SCHEDULED FOR REPLACEMENT

Recommendation: That the City Council authorize the purchase by negotiation of the equipment listed and authorize payment for said equipment upon satisfactory delivery.

Documentation: M.O. 13-071624
Disposition: Approved.

12. AUTHORIZATION TO PURCHASE MASTER METER 4G RADIO READ WATER METERS

Recommendation: That the City Council authorize the Public Works Director to purchase miscellaneous new and replacement Master Meter 4G radio read water meters and meter registers from Hydro Pro Solutions during the 2024-2025 Fiscal Year at a not-to exceed amount of $100,000.

Documentation: M.O. 14-071624
Disposition: Approved.

13. AUTHORIZATION TO PURCHASE WATER SHARES OR SURFACE WATER FOR GROUNDWATER RECHARGE

Recommendation: That the City Council authorize the Public Works Director, or the City Manager's designee, to purchase water shares or surface water during the 2024-2025 Fiscal Year up to $1,500,000.

Documentation: M.O. 15-071624
Disposition: Approved.

14. AUTHORIZATION TO DISTRIBUTE REQUEST FOR PROPOSAL FOR SHORT-RANGE TRANSIT PLAN

Recommendation: That the City Council authorize staff to advertise an RFP for the 2025-2030 Short Range Transit Plan

Documentation: M.O. 16-071624
Disposition: Approved.

15. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS (RFP) FOR CONTRACT PLANNING SERVICES

Recommendation: That the City Council authorize staff to distribute a Request for Proposals for contract planning services.

Documentation: M.O. 17-071624
Disposition: Approved.

16. AUTHORIZATION REQUEST FOR PROPOSALS - EMERGENCY BOARD-UP SERVICE

Recommendation: That the City Council authorize staff to distribute a Request for Proposals for emergency property board up services.

Documentation: M.O. 18-071624
Disposition: Approved.

17. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS FOR EXPANSION OF NAVIGATION CENTER

Recommendation: That the City Council authorize staff to distribute a Request for Proposals for a prefabricated dining and sanitation facility for the Porterville Navigation Center.

Documentation: M.O. 19-071624
Disposition: Approved.

18. AUTHORIZATION TO ADVERTISE FOR BIDS - BUTTERFIELD STAGE CORRIDOR PROJECT

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

Documentation: M.O. 20-071624
Disposition: Approved.

20. AUTHORIZATION FOR ENGINEERING SERVICES - RECLAMATION AREA MONITORING WELL EVALUATION AND REPLACEMENT WELL INSTALLATION PLAN

Recommendation: That City Council:
1. Authorize the selection of Carollo Engineers to develop the Reclamation Area Monitoring Well Evaluation and Replacement Well Installation Plan under the On-Call Engineering Services contract agreement for a sum not to exceed $38,478 inclusive of a ten percent (10%) contingency;
2. Direct the Finance Director to initiate a purchase order to Carollo Engineers for a do not exceed amount of $38,478 inclusive of a ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Carollo Engineers upon receipt of an invoice approved by the Public Works Director.

Documentation: M.O. 21-071624
Disposition: Approved.

21. ACCEPTANCE OF PROJECT - FIRE STATION 72 CLASSROOM REMODEL PROJECT

Recommendation: That the City Council:
1. Accept the project as complete; and
2. Authorize the filing of the Notice of Completion by the City Clerk.

Documentation: M.O. 22-071624
Disposition: Approved.

22. APPROVAL OF RESOLUTION AUTHORIZING THE FILING OF REGIONAL SURFACE TRANSPORTATION PROGRAM EXCHANGE FUND CLAIM FOR THE FISCAL YEAR 2023-2024

Recommendation: That the City Council authorize and direct the Finance Director to sign and submit the Fiscal Year 2023-2024 Regional Surface Transportation Program (RSTP) Exchange funds claim to the Tulare County Association of Governments on behalf of the City in the amount of $389,025.

Documentation: Resolution No. 39-2024
Disposition: Approved.

23. APPROVING RESOLUTION FOR TRANSPORTATION DEVELOPMENT ACT (TDA) CLAIM FY 2024

Recommendation: That the City Council approve the draft resolution for Transportation Development Act (TDA) claim for fiscal year 2024.

Documentation: Resolution No. 40-2024
Disposition: Approved.

24. RENEWAL OF HR TEST RENTAL AND USE AGREEMENT BETWEEN CITY OF PORTERVILLE AND CPS HR CONSULTING

Recommendation: That the City Council authorize a two-year renewal of the Test Rental and Use Agreement with CPS HR Consulting, and authorize the Administrative Services Director to sign on behalf of the City.

Documentation: M.O. 23-071624
Disposition: Approved.

25. ACCEPTANCE OF THE UNIVERSITY OF CALIFORNIA, DAVIS, GRANT FOR SPAY/NEUTER OF CATS AND DOGS

Recommendation: That the City Council accept the grant from the University of California, Davis, in the amount of $89,740.00.

Documentation: M.O. 24-071624
Disposition: Approved.

26. AUTHORIZING FY 2024 STATE OF GOOD REPAIR (SGR) PROJECT

Recommendation: That the City Council adopt the draft resolution authorizing the Director of Transportation to execute for and on behalf of the City

any actions necessary for the purpose of obtaining SB1 State Transit Assistance State of Good Repair funds provided by the California Department of Transportation, Division of Rail and Mass Transportation, for transit infrastructure repair and service improvements, continually until the end of the State of Good Repair program, and authorizing the Mayor to execute the Authorized Agent Form required under the program.

Documentation: Resolution No. 41-2024
Disposition: Approved.

27. SEWER UTILITY DISTRICTS ANNUAL ASSESSMENTS FISCAL YEAR 2024-2025

Recommendation: That the City Council adopt the draft Resolutions ordering the continued sewer district assessments for the 2024-2025 Tax Year.

Documentation: Resolution No. 42-2024 (Area 455),
Resolution No. 43-2024 (Area 456),
Resolution No. 44-2024 (Area 458),
Resolution No. 45-2024 (Area 459)
Disposition: Approved.

28. CONSIDER RESOLUTIONS PERTAINING TO ENGINEER'S REPORTS AND THE SETTING OF A PUBLIC HEARING FOR INCLUSION WITHIN LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS FOR THE ESTABLISHMENT OF TAX ASSESSMENTS FOR PARCELS WITHIN ROYAL OAKS PHASE TWO SUBDIVISION

Recommendation: That the City Council:
1. Adopt the draft Resolution ordering the proceedings for the annexation of Royal Oaks Phase 2 into Landscape and Lighting Maintenance District Number 56, and ordering the preparation of the Engineer's Reports; and
2. Adopt the draft Resolution giving preliminary approval to the Engineer's Reports; and
3. Adopt the draft Resolution declaring the intent to annex Royal Oaks Phase 2 into District 56, levy and collect assessments, and setting a Public Hearing for August 6, 2024.

Documentation: Resolution No. 46-2024, Resolution No. 47-2024, Resolution No. 48-2024
Disposition: Approved.

29. PRELIMINARY ANNUAL ENGINEER'S REPORT OF ASSESSMENTS FOR LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS AND SETTING A PUBLIC HEARING

Recommendation: That the City Council:

1. Adopt the draft resolution ordering the preparation of an Engineer's Report for the Landscape and Lighting Maintenance Districts for the 2024-2025 Fiscal Year;
2. Adopt the draft resolution giving preliminary approval to the Engineer's Report for the Landscape and Lighting Maintenance Districts for the 2024-2025 Fiscal Year;
3. Adopt the draft resolution declaring the intent to levy and collect assessments for the 2024-2025 Fiscal Year, and offering a time and place for hearing objections hereto; and
4. Schedule a Public Hearing for August 6, 2024, at 6:30 P.M., regarding the Engineer's Report and proposed assessment for the Landscape and Lighting Maintenance Districts for the 2024-2025 Fiscal Year.

Documentation: Resolution No. 49-2024,
Resolution No. 50-2024,
Resolution No. 51-2024

Disposition: Approved.

30. AUTHORIZATION OF STREET CLOSURES FOR THE NATIONAL NIGHT OUT COMMUNITY EVENT ON AUGUST 6, 2024

Recommendation: That the City Council authorize the closure of Main Street from Thurman Avenue to Putnam Avenue and adjacent side streets to the alleys from 3:00 P.M. to 10:00 P.M. for the National Night Out community event on August 6, 2024.

Documentation: M.O. 25-071624

Disposition: Approved.

31. AUTHORIZATION OF STREET CLOSURE FOR KJUG CONCERT

Recommendation: That the City Council authorize the street closures for the KJUG concert on a date to be determined.

Documentation: M.O. 26-071624

Disposition: Approved.

32. APPROVAL OF COMMUNITY CIVIC EVENT - AMERICAN CONSERVATORY - ELITE NIGHT LIGHTS - AUGUST 2, 2024

Recommendation: That the City Council approve the Community Civic Event application from the American Conservatory on August 2, 2024, located in the parking lot behind Keller Williams Elite Realty, between Hockett Street and the alley, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A, and Exhibit B.

Documentation: M.O. 27-071624
Disposition: Approved.

33. APPROVAL OF COMMUNITY CIVIC EVENT - PARENTING NETWORK - PORTERVILLE UNITED CAR SHOW - AUGUST 3, 2024

Recommendation: That the City Council approve the Community Civic Event application from the Parenting Network on August 3, 2024, at Veterans Park, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

Documentation: M.O. 28-071624
Disposition: Approved.

34. APPROVAL OF COMMUNITY CIVIC EVENT - PORTERVILLE BREAKFAST ROTARY - RUN FOR LIFE - SEPTEMBER 7, 2024

Recommendation: That the City Council approve the Community Civic Event application from Porterville Breakfast Rotary to hold the "Run for Life" event on September 7, 2024, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A and Exhibit B.

Documentation: M.O. 29-071624
Disposition: Approved.

35. CONSIDERATION OF APPOINTMENT OF CALTIP BOARD MEMBER

Recommendation: That the City Council:
1. Approve the draft resolution designating Transportation Director Richard Tree as the City's CalTIP Board Member, and Assistant City Manager Michael Knight and Administrative Services Director Yuliana Andrade as the Alternate Members; and
2. Authorize the Mayor to execute said Resolution for submission to CalTIP.

Documentation: Resolution No. 52-2024
Disposition: Approved.

SCHEDULED MATTERS

37. ADOPTION OF ANNUAL APPROPRIATION LIMIT

Recommendation: That the City Council approve the draft Resolution adopting the appropriation limit of $97,384,301 for the 2024-2025 Fiscal Year.

City Manager Hildreth introduced the item and Finance Director Janie Rodriguez presented the staff report.

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Council Member Weyhrauch that the City Council approve the draft resolution adopting the appropriation limit of $97,384,301 for the 2024-2025 Fiscal Year.

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

Documentation: Resolution No. 53-2024
Disposition: Approved.

38. CONSIDERATION OF REQUEST BY TCAG FOR LETTER OF SUPPORT OF CROSS VALLEY EXPRESS

Recommendation: That the City Council consider the request for a letter in support of TCAG's grant application to fund the implementation of the Cross Valley Express.

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

COUNCIL ACTION: MOVED by Mayor Flores, SECONDED by Council Member Meister that the City Council approved the request for a letter in support of TCAG's grant application to fund the implementation of the Cross Valley Express.

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

Documentation: M.O. 30-071624
Disposition: Approved.

19. AUTHORIZATION TO AWARD CONTRACT - MAIN STREET RECONSTRUCTION PROJECT, PHASE 2A (GARDEN AVENUE TO PUTNAM AVENUE)

Recommendation: That City Council:

1. Award the Main Street Reconstruction Project, Phase 2A (Garden Avenue to Putnam Avenue) to MAC General Engineering Inc. in the amount of $1,322,219.00;
2. Authorize progress payments up to one hundred percent (100%) of the contract amount;
3. Authorize a ten percent (10%) contingency to cover unforeseen costs;
4. Authorize an additional $132,221 for construction management, construction surveying, quality control and inspection services; and
5. Authorize the City Engineer to negotiate construction surveying services with one of the firms as approved by Council MO #04-041922.

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

COUNCIL ACTION: MOVED by Council Member Weyhrauch, SECONDED by Council Member Meister that the City Council award the Main Street Reconstruction Project, Phase 2A to MAC General Engineering Inc. in the amount of $1,322,219.00.

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

Documentation: M.O. 31-071624
Disposition: Approved.

36. STATUS AND REVIEW OF DECLARATION OF LOCAL FLOOD EMERGENCY

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

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

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Mayor Flores that the City Council approve the continuance of the Declaration of Local Flood Emergency.

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

Documentation: M.O. 32-071624
Disposition: Approved.

AB 1234 REPORTS

1. Tulare County Association of Governments (TCAG) / Tulare County Transportation Authority (TCTA) - June 17, 2024 (Report Continued)
Mayor Flores reported the approval of minutes, adoption of resolutions, and several information reports.

2. Tulare County Taskforce on Homelessness - June 19, 2024 (Cancelled)

3. Cannabis Ad Hoc Committee - June 25, 2024
Council Member Weyhrauch gave an update regarding the evaluation of license statuses, a discussion pertaining to the Community Benefit program, and a report on tax revenue.

4. Tulare County Economic Development Corporation (TCEDC) - June 26, 2024
No report was given.

5. Tulare County Regional Transit Agency (TCRTA) - June 26, 2024
Council Member Weyhrauch provided an update on various topics, including discussions on loan repayments, Local Transportation Claims, and the resolution of outstanding issues related to the five-year allotment reconciliation.

6. Internal City Audit Committee - June 26, 2024
Mayor Flores provided an update on the approval of the Minutes and discussed the review process for the Community Civic Events.

7. Local Initiatives Navigation Center (LINC) Committee - July 10, 2024
Council Member Beltran provided updates on various items, which encompassed the approval of the Minutes, approval of the budget for the upcoming fiscal year, and deliberation on LINC events.

8. Tulare County Association Of Governments (TCAG)/Tulare County Transportation Authority (TCTA) - July 15, 2024
No meeting was held, therefore no report was given.

9. Tulare County Regional Transit Agency (TCRTA) - July 15, 2024
No report was given.

ORAL COMMUNICATIONS

- Brock Neeley, Porterville, distributed handouts and provided recommendations regarding the implementation of the Non-Profit Grant program.

OTHER MATTERS

- Mayor Flores formally announced her decision not to seek reelection for the position of Council Member in the November 5, 2024 election. In her announcement, she urged potential candidates to engage in active campaigning with dignity, a sense of pride in their community, and the use of non-toxic language.
- Council Member Beltran discussed the employee service awards and events he recently participated in, such as a ride along with the Fire Department and Freedom Fest. Additionally, Council Member Beltran addressed concerns raised by members of the public related to unhoused individuals.
- Council Member Weyhrauch discussed a recent conversation with a local business owner, ongoing trail maintenance efforts, and the established protocols governing flag presentations on city-owned structures, and touched on several items on the agenda.
- Council Member Meister expressed surprise at Mayor Flores' announcement and commended her leadership qualities. Council Member Meister also mentioned a conversation with Gene Day from the American Legion and requested the inclusion of an agenda item to deliberate on the broadcasting procedures with the American Legion for the Veterans Day Parade, and for the item to be placed as a Scheduled Matter at the August 20th, 2024, city council meeting. This matter is scheduled for discussion during the meeting on August 20th, 2024.

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Council Member Weyhrauch that the City Council approve Council Member Meister's request to bring an item at the next Council meeting to discuss the broadcasting procedures for the Veterans Day Parade, with the American Legion.

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

Documentation: M.O. 33-071624
Disposition: Approved.

Council Member Meister also addressed community concerns regarding homelessness and the accumulation of trash and debris, and encouraged the community to attend council meetings and voice their concerns on important matters.

- City Manager Hildreth reminded the community about the upcoming mattress disposal day.

CLOSED SESSION

The Council took a 10 minute recess at 9:05 p.m. and reconvened in Closed Session. It was reported that no reportable action had taken place during Closed Session.

ADJOURNMENT

The Council adjourned at 10:06 p.m. to the meeting of August 6, 2024, at 4:00 p.m.

Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

SEAL

Martha A. Flores, Mayor

SUBJECT: Authorization to Purchase Trailer for Encampment Abatement Program

SOURCE: Parks and Leisure Services

COMMENT: During its adoption of the Fiscal Year 2024/25 budget, the City Council authorized staff to initiate an encampment abatement program administered by the City. The authorization included hiring one full-time Encampment Maintenance Worker, four part-time Encampment Maintenance Workers, and purchasing the necessary equipment to perform the related duties. One of those duties includes clean-up, transportation, and disposal of waste to properly clean and clear the encampment sites. Another duty includes removing and disposing of vegetation, in order to gain access to encampment sites, and raising trees and shrubbery to allow better visibility of sites post-encampment removal.

One key piece of equipment needed to perform these encampment-related duties is a trailer to load and haul all the debris off the site. Three (3) vendors were solicited to submit a quote. Of those, only one (1) was responsive, Big Tex Trailer World, with a quote of $12,389.31.

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

ATTACHMENTS: 1. Trailer Quote

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: Patrice Hildreth, City Manager

Jacobson Trailers
1128 E SOUTH AVE
FOWLER, CA 93625
(559) 834-5971
Jacob Defonseka
jacob.defonseka@biglextrailers.com

Invoice

Billing Info

Acct # 33206

Buyer TW - CITY OF PORTERVILLE - PORTERVILLE - NET 30 DAYS

Billing Address

391 N. MAIN ST. PORTERVILLE, CA 93257-
PORTERVILLE, CA 93257

Client Info

Buyer TW - CITY OF PORTERVILLE - PORTERVILLE - NET 30 DAYS

Mailing Address

rvelasco@ci.porterville.ca.us

Deal #:257208

Stock # R4353910

Delivery Date

TS Ref# a13UP00000DBUWLYA5

Customer PO Number

Trailer Information				
VIN 16V1D1928R4353910	*Year* 2024	*Make* Big Tex	*Model* 14LP-14BK6SIRPD	*Color* Black
GVWR 14000	*Capacity* 9655.00	*Empty Weight* 4345.00	*Body Style* DUMP	
			Trailer Price	$10,799.00
After Market Items				
[QTY:1] OT:6750142 COUPLER SNAPPER PIN 1 4 (T)				$2.99
[QTY:1] OT:9400869-TT ST23580RLRE-166BLK MOD 865 (T)				$205.00
			Sub Total	$207.99
Fees				
Battery Fee Battery Fee				$2.00
Prep Fee Prep Fee				$65.00
Dealer Documentation Fee Taxable Dealer Documentation Fee Taxable (T)				$55.00
Waste Tire Fee Waste Tire Fee				$8.75
TRAILER THEFT 5000 EXT SVC CON TAXABLE Theft Coverage - 5000 - Taxable (T)				$209.00
			Sub Total	$339.75
Totals				$11,346.74

Total Tax	$1,042.57
Invoice Total	$12,389.31
Less Deposit	$0.00
Due Upon Delivery	$12,389.31
Tendered	$0.00
Balance Due	$12,389.31

SUBJECT: Authorization to Purchase Street Sweeper Blower Wheel

SOURCE: Public Works

COMMENT: Vehicle #6685, a 2013 Freightliner/Tymco Street Sweeper, has experienced failure of the blower wheel. The blower wheel is a proprietary component which can only be purchased from a Tymco parts distribution center. This street sweeper has at least three years of expected service life remaining.

Staff is requesting authorization to purchase the blower wheel from GCS Environmental Equipment, as they are the nearest Tymco distribution center, at an estimated cost of $8,233 (inclusive of all parts, taxes, freight, and a 10% contingency). Funding is available in the Refuse Street Sweeping Operating Budget.

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

ATTACHMENTS: 1. Blower Wheel Estimate

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Assistant City Manager

Final Approver: Patrice Hildreth, City Manager

GCS Environmental Equipment Services Inc
121 East St
Woodland Ca. 95776
Phone # (530) 402-1850
Fax # (530) 402-1851
Web Site: gcsees.com

GCS Environmental Equipment Services Inc

Quote #28912

Date	Invoice #
7/23/2024	

Bill To	Ship To
City of Porterville 291 N Main St Finance-Accts Payable Porterville, CA 93257	City of Porterville FS Shop Maintenance 555 N Prospect Porterville, CA 93257

P.O. Number	Terms	Ship	Contact	Account #	Via	F.O.B.
6685	Net 30			100048	ESTES freight	Woodland

Qty	B/O	Item Code	Description	Loc	Price Each	Amount
1	0	501513	Coated Blower Wheel Assy	PR4D	5,168.90	5,168.90T
1	0	5012830	Wear Liner 600	PR4C	1,534.50	1,534.50T
1		Freight Out-Parts	Freight Charges		161.05	161.05
			2128208693			
			Sales Tax-Tulare(Porterville)			620.07

Please remit to: GCS Environmental Equipment Services - 121 East St Woodland Ca 95776

Total	$7,484.52
Payments/Credits	$0.00
Balance Due	$7,484.52

8,232.97

SUBJECT: Authorization for Refuse Truck Engine Repair

SOURCE: Public Works

COMMENT:

Vehicle No. 6691 is an active commercial refuse truck that has experienced significant engine wear to the cylinder liners and cylinder head which will require an engine rebuild. This vehicle is powered by a Cummins compressed natural gas (CNG) engine and must be repaired or replaced by a certified CNG service center. The truck has approximately three (3) years of remaining active service life.

Staff is requesting authorization to utilize Cummins Pacific, which is the nearest CNG engine service center, to perform the required engine repair at an estimated cost not to exceed $34,675 (inclusive of all parts, taxes, and labor, and a 10% contingency). Funds are available in the Solid Waste Operating Budget.

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

ATTACHMENTS: 1. 6691 Overhaul Estimate

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Assistant City Manager

Final Approver: Patrice Hildreth, City Manager

Sales and Service

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

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

INVOICE NO

ESTIMATE

TO PAY ONLINE LOGON TO
customerpayment.cummins.com

BILL TO

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

RAFAEL BAEZ - 559 7827597

***** CHARGE *****

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
05-JUL-2024		02-NOV-2016	ISL G CM2180		PETERBILT
CUSTOMER NO.	**SHIP VIA**	**FAIL DATE**	**ENGINE SERIAL NO.**	**CPL NO.**	**EQUIPMENT MODEL**
255161		12-JUN-2024	73964854	3517.000	320(LCF)
REF. NO.	**SALESPERSON**	**PARTS DISP.**	**MILEAGE/HOURS**	**PUMP CODE**	**UNIT NO.**
228525			127479 / 1318		6691

OSN/MSN/VIN 3BP2X20X8HF108651 **LICENSE** 1469359

COMPLAINT FREE GUARDIAN INSPECTION

1, MISFIRE CODES FOR CYLINDER 4 & 6.

NOTE: CUSTOMER REPLACED ALL PLUGS AND COILS TO INCLUDE SWAPPING TRANSFORMERS.

CAUSE GUIDANZ- 00923238
FAILED CYLINDER HEAD AND LOW LINERS
OLD CAL- AW90043.24
NEW CAL- AW90043.26

CORRECTION THANK YOU FOR CHOOSING CUMMINS SALES AND SERVICE

COVERAGE CUSTOMER BILLABLE

IF ADDITIONAL PARTS OR LABOR ARE NEEDED A REVISED ESTIMATE WILL BE SENT

DIAGNOSTIC CHARGE: 0.00

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
1		0	NG5900	PAC, NG	FLG	88.90	88.90
8		0	V891001	P BL 1 S GN2 15W-40 BULK	VALVOLINE	17.47	139.76
			ORDERED ITEM	V891001 C1-VSD			
4		0	3818824	NUT,REGULAR HEXAGON	CECO	4.53	18.12
6		0	3924445	SHIM	CECO	45.30	271.80
12		0	3944593	SCREW,HEX FLANGE HEAD CAP	CECO	5.45	65.40
1		0	3945917	KIT,MAIN BEARING	CECO	347.90	347.90
4		0	5286984	STUD	CECO	12.94	51.76
1		0	5633625	KIT,OVERHAUL	CECO	4,382.34	4,382.34
1		0	5569421RX	HEAD,CYLINDER	DRC	6,554.65	6,554.65

Completion date : 12-Jun-2024 10:29AM. Estimate expires : 12-Jul-2024 07:01PM.

Billing Inquiries? Call (877)480-6970

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

AUTHORIZED BY (print name)_____**SIGNATURE**_____**DATE**_____

TERMS AND CONDITIONS

These terms and conditions ('Terms and Conditions'), together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions represents that by its signing of this Agreement that the signer represents that he or she is duly authorized to enter into this Agreement. Further, Customer authorizes, if applicable, the performance of services and labor on Customer's vehicle and/or equipment as provided. This shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement.

Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website, vendor portal, or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, vendor portal terms, specifications, agreement (whether upstream or otherwise), or any terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE OF SERVICES; PERFORMANCE OF SERVICES. Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) (""Goods"") and/or perform the maintenance, troubleshooting, diagnostic testing, and/or repair (""Service(s)"") on the equipment identified in the Quote and/or Invoice (""Equipment""), if applicable, in accordance with the specifications in the Quote and/or Invoice. Unless otherwise agreed by the Parties in writing: (i) no additional services or goods are included in this Agreement; and (ii) this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ('Quote Validation Period'). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

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

3. INVOICING AND PAYMENT. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services.

If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) suspend its Services and/or suspend delivery of any undelivered Goods or parts in Cummins' possession until payment for unpaid invoices is received. In the event that Cummins suspends its performance of Services due to Customer's breach or non-payment, then Cummins shall be entitled to an equitable extension of its delivery dates and/or schedule of Services for a period of time equal to the suspension period, plus a reasonable ramp up period and all costs (including default interest) caused by such suspension shall be assumed by Customer. Any dispute or claim Customer may have with or against Cummins' invoice, regarding the scope, quality or amount charged for any parts or services provided to Customer, must be asserted in writing and noticed pursuant to these Terms and Conditions within thirty (30) days of the date of the invoice, or shall be waived by the Customer.

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

5. DELIVERY; TITLE AND RISK OF LOSS. Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility. The purchase of Goods or the performance of Services on Equipment, Customer-owned motor vehicle, or any other personal property, is a 'take or pay' obligation on the part of the Customer, such that Customer is absolutely and irrevocably required to accept and pay for the Goods, or any Services performed on Equipment, Customer-owned motor vehicle, or any other personal property, if delivery or pick-up of Goods, Equipment, Customer-owned motor vehicle, or any other personal property, is delayed, deferred, or refused by Customer beyond thirty (30) days from the agreed upon delivery date or the date of completion of Services.

In the event Customer fails to pick-up Equipment, Customer-owned motor vehicle, or any other personal property, or fails to take any or all shipments of Goods ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall invoice the Customer and, upon Cummins' sole discretion, Cummins may either: (i) deliver the Goods or Equipment to the location indicated on Customer's purchase order (regardless of whether Customer elected to pick up the Goods or Equipment at Cummins' facility or otherwise indicated an alternate delivery method), and Customer shall assume all associated delivery costs incurred by Cummins, or (ii) charge storage fees for the additional inventory holding period, the additional inventory holding period not to exceed sixty (60) days from the agreed upon delivery date or the date of completion of Services, unless otherwise agreed by Cummins in writing or required by law. A storage fee of twenty-five dollars ($25.00) per day or one and one-half percent (1.5%) per month of the invoiced amount, whichever is greater, shall be assessed for any Goods, Equipment, Customer-owned motor vehicle, or any other personal property, whose delivery or pick-up is delayed, deferred, or refused by Customer beyond thirty (30) days from the agreed upon delivery date or the date of completion of Services.

Unless otherwise agreed by Cummins in writing, in the event delivery or pick-up of Goods, Equipment, Customer-owned motor vehicle, or any other personal property, are delayed, deferred, or refused by Customer beyond sixty (60) days from the agreed upon delivery or pick-up date, or date of completion of Services, then Cummins has the right, in its sole discretion, to: (i) tow, remove, or otherwise dispose of the unclaimed Goods, Equipment, Customer-owned motor vehicle, or any other personal property, in accordance with applicable abandonment laws, and/or (ii) make the Goods, Equipment, Customer-owned motor vehicle, or any other personal property, available for auction or sale to other customers or to the public, or (iii) otherwise use, destroy, or recycle the Goods, Equipment, Customer-owned motor vehicle, or any other personal property, at Customer's sole cost and expense, and without any liability to Cummins.

6. DELAYS. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, embargos, wars, strikes or other labor disputes, civil commotion, terrorism, sabotage, late delivery by Cummins'

suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALLY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE GOODS OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.

7. LIMITED WARRANTIES.

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

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

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

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

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

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

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

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

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

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

12. CANCELLATION; TERMINATION. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non- recoverable costs incurred by Cummins. Cummins may terminate this Agreement, in whole or in part, for cause if the Customer breaches its obligations under this Agreement, and such breach is not cured within fifteen (15) days after written notice to Customer, or such longer time that Cummins may specify in its notice. Cummins may, at any time, terminate this Agreement for convenience upon thirty (30) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Goods or Services supplied under this Agreement, in accordance with the payment terms detailed in this Agreement.

If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

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

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

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

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

17. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment ('Shipment Date') or, in the case of Services, the date of performance ('Performance Date'), due to economic and market conditions on the Shipment Date or Performance Date, whichever is applicable. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input cost (including without limitation, raw materials, fabrication components, direct or indirect materials, packaging materials, overhead, etc.) and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

18. MISCELLANEOUS. All notices, including but not limited to disputes of invoices or otherwise, under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. The Parties' rights, remedies, and obligations under this Agreement, which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 9. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof.

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

Cummins Sales and Service

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

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

INVOICE NO

ESTIMATE

TO PAY ONLINE LOGON TO
customerpayment.cummins.com

BILL TO

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

RAFAEL BAEZ - 559 7827597

***** CHARGE *****

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
05-JUL-2024		02-NOV-2016	ISL G CM2180		PETERBILT
CUSTOMER NO.	**SHIP VIA**	**FAIL DATE**	**ENGINE SERIAL NO.**	**CPL NO.**	**EQUIPMENT MODEL**
255161		12-JUN-2024	73964854	3517.000	320(LCF)
REF. NO.	**SALESPERSON**	**PARTS DISP.**	**MILEAGE/HOURS**	**PUMP CODE**	**UNIT NO.**
228525			127479 / 1318		6691

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
OSN/MSN/VIN		3BP2X20X8HF108651			**LICENSE** 1469359		
1		0	4933818D	HEAD,CYLINDER	CLEAN	472.50	472.50
-1		0	4933818D	HEAD,CYLINDER	DIRTY	472.50	- 472.50
1		0	AIR FILTER	AIR FILTER	P2-NSPART2	405.00	405.00
11		0	ZXEDRU1B	RED ANTIFREEZE BULK	P2-OTHER	11.99	131.89

PARTS:		12,457.52
PARTS COVERAGE CREDIT:		0.00CR
TOTAL PARTS:	**12,457.52**	
SURCHARGE TOTAL:		**0.00**
LABOR:		16,782.70
LABOR COVERAGE CREDIT:		0.00CR
TOTAL LABOR:	**16,782.70**	
MISC.:		1,200.00
MISC. COVERAGE CREDIT:		0.00CR
TOTAL MISC.:	**1,200.00**	
FREIGHT		700.00
MISCELLANEOUS		500.00
LOCAL		**304.50**
STATE		**777.45**

Completion date : 12-Jun-2024 10:29AM. Estimate expires : 12-Jul-2024 07:01PM.

Billing Inquiries? Call (877)480-6970

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

SUB TOTAL:	30,440.22
TOTAL TAX:	1,081.95
TOTAL AMOUNT: US $	**31,522.17**

AUTHORIZED BY (print name)_____**SIGNATURE**_____**DATE**_____

TERMS AND CONDITIONS

These terms and conditions ('Terms and Conditions'), together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions represents that by its signing of this Agreement that the signer represents that he or she is duly authorized to enter into this Agreement. Further, Customer authorizes, if applicable, the performance of services and labor on Customer's vehicle and/or equipment as provided. This shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement.

Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website, vendor portal, or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, vendor portal terms, specifications, agreement (whether upstream or otherwise), or any terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE OF SERVICES; PERFORMANCE OF SERVICES. Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) (""Goods"") and/or perform the maintenance, troubleshooting, diagnostic testing, and/or repair (""Service(s)"") on the equipment identified in the Quote and/or Invoice (""Equipment""), if applicable, in accordance with the specifications in the Quote and/or Invoice. Unless otherwise agreed by the Parties in writing: (i) no additional services or goods are included in this Agreement; and (ii) this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ('Quote Validation Period'). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

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

3. INVOICING AND PAYMENT. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services.

If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) suspend its Services and/or suspend delivery of any undelivered Goods or parts in Cummins' possession until payment for unpaid invoices is received. In the event that Cummins suspends its performance of Services due to Customer's breach or non-payment, then Cummins shall be entitled to an equitable extension of its delivery dates and/or schedule of Services for a period of time equal to the suspension period, plus a reasonable ramp up period and all costs (including default interest) caused by such suspension shall be assumed by Customer. Any dispute or claim Customer may have with or against Cummins' invoice, regarding the scope, quality or amount charged for any parts or services provided to Customer, must be asserted in writing and noticed pursuant to these Terms and Conditions within thirty (30) days of the date of the invoice, or shall be waived by the Customer.

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

5. DELIVERY; TITLE AND RISK OF LOSS. Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility. The purchase of Goods or the performance of Services on Equipment, Customer-owned motor vehicle, or any other personal property, is a 'take or pay' obligation on the part of the Customer, such that Customer is absolutely and irrevocably required to accept and pay for the Goods, or any Services performed on Equipment, Customer-owned motor vehicle, or any other personal property, if delivery or pick-up of Goods, Equipment, Customer-owned motor vehicle, or any other personal property, is delayed, deferred, or refused by Customer beyond thirty (30) days from the agreed upon delivery date or the date of completion of Services.

In the event Customer fails to pick-up Equipment, Customer-owned motor vehicle, or any other personal property, or fails to take any or all shipments of Goods ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall invoice the Customer and, upon Cummins' sole discretion, Cummins may either: (i) deliver the Goods or Equipment to the location indicated on Customer's purchase order (regardless of whether Customer elected to pick up the Goods or Equipment at Cummins' facility or otherwise indicated an alternate delivery method), and Customer shall assume all associated delivery costs incurred by Cummins, or (ii) charge storage fees for the additional inventory holding period, the additional inventory holding period not to exceed sixty (60) days from the agreed upon delivery date or the date of completion of Services, unless otherwise agreed by Cummins in writing or required by law. A storage fee of twenty-five dollars ($25.00) per day or one and one-half percent (1.5%) per month of the invoiced amount, whichever is greater, shall be assessed for any Goods, Equipment, Customer-owned motor vehicle, or any other personal property, whose delivery or pick-up is delayed, deferred, or refused by Customer beyond thirty (30) days from the agreed upon delivery date or the date of completion of Services.

Unless otherwise agreed by Cummins in writing, in the event delivery or pick-up of Goods, Equipment, Customer-owned motor vehicle, or any other personal property, are delayed, deferred, or refused by Customer beyond sixty (60) days from the agreed upon delivery or pick-up date, or date of completion of Services, then Cummins has the right, in its sole discretion, to: (i) tow, remove, or otherwise dispose of the unclaimed Goods, Equipment, Customer-owned motor vehicle, or any other personal property, in accordance with applicable abandonment laws, and/or (ii) make the Goods, Equipment, Customer-owned motor vehicle, or any other personal property, available for auction or sale to other customers or to the public, or (iii) otherwise use, destroy, or recycle the Goods, Equipment, Customer-owned motor vehicle, or any other personal property, at Customer's sole cost and expense, and without any liability to Cummins.

6. DELAYS. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, embargos, wars, strikes or other labor disputes, civil commotion, terrorism, sabotage, late delivery by Cummins'

suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALLY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE GOODS OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.

7. LIMITED WARRANTIES.

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

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

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

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

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

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

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

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

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

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

12. CANCELLATION; TERMINATION. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non- recoverable costs incurred by Cummins. Cummins may terminate this Agreement, in whole or in part, for cause if the Customer breaches its obligations under this Agreement, and such breach is not cured within fifteen (15) days after written notice to Customer, or such longer time that Cummins may specify in its notice. Cummins may, at any time, terminate this Agreement for convenience upon thirty (30) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Goods or Services supplied under this Agreement, in accordance with the payment terms detailed in this Agreement.

If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

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

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

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

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

17. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment ('Shipment Date') or, in the case of Services, the date of performance ('Performance Date'), due to economic and market conditions on the Shipment Date or Performance Date, whichever is applicable. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input cost (including without limitation, raw materials, fabrication components, direct or indirect materials, packaging materials, overhead, etc.) and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

18. MISCELLANEOUS. All notices, including but not limited to disputes of invoices or otherwise, under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. The Parties' rights, remedies, and obligations under this Agreement, which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 9. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof.

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

SUBJECT: Request For Renewal of Accela PublicStuff One Year Contract

SOURCE: City Manager's Office

COMMENT: At its meeting on August 6, 2013, in consideration of options for implementing a City mobile application and Citizen Relationship Management (CRM) system, the City Council authorized a one-year contract with Accela for the PublicStuff program for the development of the "myPorterville" mobile application. The City utilizes the PublicStuff program to receive code enforcement concerns from the community and to coordinate and track the applicable responses to the concerns from various departments within the City.

The current one-year contract with Accela will expire on September 16, 2024. Given the community's positive response to myPorterville, as well as staff's utilization for coordinated Code Enforcement, it is recommended that the City enter into a one-year contract with Accela for the PublicStuff Pro application for the renewal price of $15,388.13.

Funding for the contract renewal will come out of the Community Promotions account.

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

ATTACHMENTS: 1. Accela Renewal Order Form

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager

Accela

2633 Camino Ramon, Suite 500
San Ramon, CA, 94583

Proposed by: Chanelle Dam
Contact Phone:
Contact Email: cdam@accela.com
Quote ID: Q-31446
Valid Through: 8/1/2024
Currency: USD

Renewal Order Form

Address Information

Bill To:

Porterville Public Works Department, CA
291 N. Main St.
Porterville, California 93257
United States

Billing Name: Lori Halleck
Billing Phone: 559-782-7466
Billing Email: lhalleck@ci.porterville.ca.us

Ship To:

Porterville Public Works Department, CA
555 N. Prospect Street
Porterville, California 93257
United States

Services	Year	Start Date	End Date	Term (Months)	Price	Qty	Net Total
PublicStuff Pro	Year 1	9/17/2024	9/16/2025	12	$15,388.13	1	$15,388.13
						TOTAL:	$15,388.13

Pricing Summary

Period	Net Total
Year 1	$ 15,388.13
Total	**$ 15,388.13**

Renewal Terms/Information:

General Information	
Governing Agreement(s)	This Order Form, including any OnPrem Licenses, Maintenance and Support, Subscription Services, Enhanced Reporting Database and Managed Application Services will be governed by the applicable terms and conditions. If those terms and conditions are non-existent, have expired, do not apply or have otherwise been terminated, the following terms at https://www.accela.com/terms/ will govern as applicable, based on the Customer's purchase.

Order Terms	
Order Start Date	Unless otherwise specified in the Special Order Terms: • Software Licenses & Subscriptions start on the date of delivery by Accela; • Hosting and Support start on Accela's delivery of the software hosted and/or supported;.
Order Duration	Unless otherwise specified in the Special Order Terms: • Subscriptions continue from the Order Start Date through the number of months listed in this Order Form (or if not listed, twelve (12) months). Thereafter Subscriptions automatically renew annually as calculated from Order Start Date of Customer's first Subscription purchase. • Any Software Licenses or Hardware are one-time, non-refundable purchases. • Hosting and Support continue from the Order Start Date through the number of months listed in this Order Form (or if not listed, twelve (12) months). • Professional Services continue for the duration as outlined in the applicable Statement of Work, Exhibit or the Governing Agreement, as applicable.
Special Order Terms	This Order Form replaces all previous order forms for the terms listed above and will govern the Software, Maintenance, and/or Services items listed on this Order Form. • No additional or conflicting terms or conditions stated in Customer's order documentation, including, without limitation, Customer purchase orders, will be incorporated into or form any part of this order or the governing agreement, and all such additional or conflicting terms are null and void. • For Software Licenses, Accela may terminate this Order Form in the event the Software is phased out across Accela's customer base. In such event, Accela will provide Customer sufficient advance notice and the parties will mutually agree to a migration plan for converting Customer to another Accela generally-available offering with comparable functionality.

Payment Terms	
Currency	USD
Invoice Date	Unless otherwise stated in the Special Payment Terms, Invoice for the Grand Total above will be issued on the Order Start Date.
Payment Due Date	Unless otherwise stated in the Special Payment Terms or the Governing Agreement(s), all payments are due on the Invoice Date and payable **net 30 days.**
Service Charge	Pricing is based upon payment by ACH or check. Payment by credit card (including Purchase Cards) for product and services in this Order Form will be subject to a service charge of 3%. There is no service charge for ACH or check payment.

Special Payment Terms	None unless otherwise specified in this location.
Purchase Order	If Customer requires PO number on invoices, it **must** be provided below and Customer **must** provide a copy of the PO prior to invoice issuance. If no PO number provided prior to invoice issuance date, invoices issued on this Order Form will be valid without a PO reference.
	PO#

Signatures	
Accela, Inc.	**Customer**
Signature:	Signature:
Print Name:	Print Name:
Title:	Title:
Date:	Date:

SUBJECT: Renewal of Annual Contract with Vector Solutions Scheduling Software

SOURCE: Fire

COMMENT: The Fire Department has been utilizing Vector Solutions Scheduling Software for the past several years to assist in the efficient and effective scheduling of the department's workforce. The software has been an integral part of operations, assisting in managing shifts, tracking employee availability, and ensuring that there is the necessary coverage to meet the needs of the community.

The Vector Solutions Scheduling Software is essential to the operations division of the Fire Department. It provides the following benefits:

- **Efficient Scheduling:** Allows for seamless scheduling of shifts and management of employee availability.
- **Improved Coverage:** Ensures that we have adequate staffing at all times to meet the needs of our community.
- **Streamlined Operations:** Reduces administrative burden and increases efficiency in workforce management.

Given the growing demands of the department, it is imperative that the Fire Department utilize a software solution to maintain operational effectiveness. The total cost for the renewal of the Vector Solutions Scheduling Software contract is $5,605.20. Funding for the software contract is available in the Fire Department's annual budget.

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

ATTACHMENTS: 1. Vector Solutions_Invoice_INV98525

Appropriated/Funded:

Review By:

Department Director:
Shannon Skiles, Deputy Fire Chief

Final Approver: Patrice Hildreth, City Manager

TargetSolutions Learning LLC
4890 W. Kennedy Blvd.
Suite 300
Tampa, FL 33609
866-546-1212 Opt. 2
invoicing@vectorsolutions.com

Invoice

#INV98525

Doc Date: 6/26/2024

Invoice Date: 7/26/2024

Due Date: 8/25/2024

Bill To
Porterville Fire Department (CA)
40 W Cleveland Avenue
Porterville CA 93257
United States

Contract	Customer ID	Salesperson ID	Payment Terms
	0014100000i4ANlAAM	Luke Lutz	Net 30

Billing Frequency	Billing Start Date	Billing End Date	PO #
Annually	7/26/2024	7/25/2025	

Qty	Item	Rate	Amount
60	**TSSCH** - Vector Scheduling	93.42	$5,605.20

Subtotal	$5,605.20
Tax (0%)	$0.00
Total	$5,605.20
Balance Due:	$5,605.20

For U.S. customers, Vector is required to collect and remit sales tax in various jurisdictions. Exempt customers should send completed certificates to certs@vectorsolutions.com

For a Copy of our W-9: http://www.vectorsolutions.com/w9/TSw9-19.pdf

Upon expiration of the initial or any Renewal Term of your Client Agreement, access to the Services may remain active for thirty (30) days solely for purpose of Company's record keeping (the "Expiration Period"). Unless otherwise provided in your Client Agreement, any access to or usage of the Services following the Expiration Period shall be deemed Client's renewal of the Agreement under the same terms and conditions.

TargetSolutions Learning LLC
4890 W. Kennedy Blvd.
Suite 300
Tampa, FL 33609
866-546-1212 Opt. 2
invoicing@vectorsolutions.com

Invoice

#INV98525

Doc Date: 6/26/2024

Invoice Date: 7/26/2024

Due Date: 8/25/2024

Remittance Information:

Remit Checks To:
TARGET SOLUTIONS LEARNING
PO Box 736510
Dallas, TX 75373-6510

Courier Deposits (FedEx, UPS, etc.):
** Deposits received by courier may not post same day **

JPMorgan Chase (TX1-0029)
Attn: Target Solutions Learning, LLC 736510
14800 Frye Road, 2nd Floor
Ft. Worth, TX 76155

Electronic Transfers Only:
JPMorgan Chase
Wire Instructions:
Routing # 021000021
Account # 789086375
SWIFT code CHASUS33
City and State New York, New York

ACH Instructions:
Routing # 072000326
Account # 789086375

If you would like to make a secure online payment via credit card or ACH please use the below link:

Pay Online Here

Upon expiration of the initial or any Renewal Term of your Client Agreement, access to the Services may remain active for thirty (30) days solely for purpose of Company's record keeping (the "Expiration Period"). Unless otherwise provided in your Client Agreement, any access to or usage of the Services following the Expiration Period shall be deemed Client's renewal of the Agreement under the same terms and conditions.

SUBJECT: Authorization to Distribute a Request for Proposals for Fuel System Upgrades

SOURCE: Public Works

COMMENT: A Request for Proposals (RFP) has been prepared for the Fuel System Upgrade Project. The project will include a turnkey Fuel Management System upgrade at each of the City's fueling sites. The primary goals of the project are to:
1) reduce labor managing legacy mag-strip cards,
2) reduce dependency on local computer hardware to run fuel management systems,
3) improve real-time monitoring of equipment,
4) improve customer service for public and private users,
5) improve reliability of fuel management system and equipment,
6) improve operations by integrating technology, and
7) replace outdated and end-of-life equipment.

The Independent Cost Estimate (ICE) for the project is $300,000. Funding is sourced from a Federal Transit Administration (FTA) grant amounting to $240,000. A local match of $60,000 is required, which will be covered by Local Transportation Funds (LTF). These funds have been appropriated in the FY 2024-2025 Budget. The negotiated contract will be brought back to the City Council for final approval.

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

ATTACHMENTS: 1. Draft Request for Proposals

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
FUEL SYSTEM UPGRADES



August 6, 2024

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

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

CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
FUEL SYSTEM UPGRADES

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide Fuel System Upgrades

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on September 21, 2024, at 10:00 am.

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

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

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

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

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

Publication Dates:

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Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 13, 2024
Required Site Tour	Pre-Scheduled
Deadline to submit questions	August 29, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	October 9, 2024
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

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

Background

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

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

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

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

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

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

Preparation of Offer

1. Any person ("Proposer") submitting a Proposal ("Proposal") in response to this Request for Proposals ("RFP") shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to the awarded under this RFP (the "Contract"). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.

2. All forms provided must be completed and submitted with your Proposal.

3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer's errors or omissions.

4. All time periods stated as a number of days will be calendar days.

5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:

    1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

2) Study and carefully correlate Proposer's knowledge and observations with the RFP document and other related data.

3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.

4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.

6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

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

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

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

Business in California

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

Licenses

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

Certification

By signing the Proposal, proposer certifies:

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

Minimum Qualifications

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

Certificates of Insurance

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

Award of Contract

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

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

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

Solicitation Transparency Policy

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

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

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

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

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

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

Protest Process

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

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

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City's FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City's FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City's FTA Procurement and Contract Administration Manual

is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

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

Public Record

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

Right to Disqualify

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

Late Proposals

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

Pre-Bid Meeting

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on the date indicated in Section 1 ("RFP Schedule").

Contract Award

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

Determining Responsiveness and Responsibility

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

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

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

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

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other

sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

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

Clarifications

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

Detailed Evaluation of Proposals and Determination of Competitive Range

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

Proposals Not Within The Competitive Range

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

Discussions With Proposers In The Competitive Range

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

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

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

reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

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

Best and Final Offers (BAFO)

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

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

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

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

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

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

Contract Order Of Precedence

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

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

Organization – Employment Disclaimer

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

Severability

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

Non-Waiver of Liability

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

Parol Evidence

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

Contract Administration and Operation

Records

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

Discrimination Prohibited

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

may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

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

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

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

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

Health, Environmental and Safety Requirements

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

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

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.

- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

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

Compliance With Laws

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

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

Continuation During Disputes

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

Emergency Purchases

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

Costs and Payments

General

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

Payment Deduction Offset Provision

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

Late Submission of Claim By Contractor

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

Discounts

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

No Advance Payment

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

Fund Appropriation Contingency

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

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions,

as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

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

Contract Changes

Contract Amendments

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

Assignment – Delegation

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

Non-Exclusive Contract

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

Risk of Loss and Liability

Title and Risk of Loss

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

Acceptance

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

Force Majeure

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

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

Loss of Materials

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

Contract Performance

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

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

Damage to City Property

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

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

City's Contractual Rights

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

Non-Exclusive Remedies

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

Default In One Installment To Constitute Breach

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

On Time Delivery

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

Default

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

Covenant Against Contingent Fees

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

Cost Justification

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

Work Product, Equipment and Materials

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

Contract Termination

Gratuities

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

Conditions and Causes for Termination

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

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

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;

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

State and Local Transaction Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

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

Tax Responsibility Qualifications

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

in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

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

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

- Ability to take regular and necessary breaks as needed and additional breaks for hydration.

- Access to shaded areas and/or air conditioning.

- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.

- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.

- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

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

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

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

Post Award Conference

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

Estimated Quantities

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

Authorized Changes

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

Alteration In Character Of Work

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

Method Of Invoicing And Payment

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

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

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

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

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

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

Key Personnel

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

Strict Performance

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

Performance Interference

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

Unsatisfactory Performance

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

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

Employee Identification and Facility Access

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

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health

information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

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

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

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

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

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

Data Protection

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

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

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

(1) process PII only within the United States and only in accordance with the Contract and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;

(2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

(3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;

(4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for

Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;

(5) take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

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

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

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

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

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

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

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

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

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of

this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

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

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

(1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;

(2) act on newly acquired information whether or not such information should have been previously discovered;

(3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and

(4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

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

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be

deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

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

Non-Disclosure

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

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

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

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

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

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The

name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

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

Claims or Demands Against The City

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

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

Conflicts of Interest

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

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

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor,

terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

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

Contractor's Insurance

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

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

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

Commercial General Liability – Occurrence Form

General Aggregate - $4,000,000

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

Personal and Advertising Injury - $1,000,000

Fire Damage - $1,000,000

Each Occurrence - $1,000,000

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

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

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

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

Automobile Liability

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

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

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

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

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.

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

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

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident $100,000

Disease – Each Employee $100,000

Disease – Policy Limit $500,000

- Policy must contain a waiver of subrogation against the City of Porterville.

- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor's Property and Equipment

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

Additional Insurance Requirements

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

1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.

2) Contractor's insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.

3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

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

Acceptability of Insurers

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

Verification of Coverage

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

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

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

Section V - SCOPE OF WORK

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

Background

The City of Porterville's Fuel Management System (GASBOY) operates multiple fueling sites, one bus wash, and two gates for its fleet of approximately 300 vehicles and equipment. The fueling sites are located at the 555 N. Prospect Street, Porterville, CA 93257 and 1893 Newcomb St., Porterville, CA 93257.

The main fueling site (private) has two 20,000 gallon in-ground tanks one for diesel and one for gasoline. The fuel is dispensed from two fuel islands, each with two fast fill single-hose dispensers for diesel and two for gasoline. There is a single controller for the fuel islands (Pictures Below)





The second fueling site (public) has a standalone, fast fill two-hose Compressed Natural Gas (CNG) dispenser and standalone controller. The standalone controller is setup for payment and authorizations. (Pictures Below)





The bus wash system is controlled by a single controller. (Picture Below).



Two entrance gates are each controlled by standalone controllers. (Picture Below)



The main fuel station, with in-ground tanks, is monitored by a Veeder-Root TLS-350 automatic tank gauge. (Picture Below)



Data is collected using mag-strip cards with manual entry for utilization. All data is stored on a City computer and is integrated into the City's Fleet Maintenance Software, RTA.

General Scope of Work

Proposer shall provide all necessary equipment, software/licensing, data plans, and labor required to perform a turnkey Fuel Management System Upgrade at each fueling site. The primary goals of this project are to:

1. Reduce labor managing legacy mag-strip cards.
2. Reduce dependency on local computer hardware to run fuel management system.
3. Improve real-time monitoring of equipment.

4. Improve customer service for public and private users.
5. Improve reliability of fuel management system and equipment.
6. Improve operations by integrating technology.
7. Replace outdated or end-of-life equipment.

The objectives in meeting the primary goals are to:

1. Replace existing dispensers with next-generation commercial equipment.
2. Replace existing site controllers with next-generation commercial equipment.
3. Replace legacy fuel management system with next-generation cloud-based software.
4. Utilize automated and contactless payment/authorization whenever possible.
5. Offer fleet card features for self-service operations.

The City is seeking a fuel management system that requires no human intervention in the authorization of fueling and data collection. The system must also be able to work simultaneously with a wide range of authorization and secure payment methods. In addition to the fuel management system, the selected vendor must replace all out dated equipment, including but not limited to dispensers, site controllers, and tank monitoring.

A full list of bid specifications is provided in **Attachment 1**.

Proposal Format

Vendors should organize Proposals into the following Sections:

A. System
B. Maintenance and Repairs
C. Retrofitting
D. Technology
E. Qualifications and Experience
F. References
G. Fee Proposal (include in a separate sealed envelope clearly marked “Fee Proposal”)
H. Authorized Negotiator
I. Attachments

The following describes the elements that should be included in each of the proposal sections and the weighted point system that will be used for evaluation of the proposals.

A. System – 30 points

    a. A written description of the proposed fuel management system. Itemizing its ability to perform each of the functions listed in Attachment 1.

B. Technology - 15 points

    a. A Detailed description of systems technology and how it conforms all the items listed Attachment 1.

C. Retrofitting - 15 points

    a. A description of the steps needed to change over all existing City assets from the City's current fuel management system to the vendors system. This should include, if required, providing temporary cards or key for each asset in the City's fleet for use during site installation.

    b. Estimated time required to complete retrofitting of fleet and fueling sites.

    c. Lead time need to begin project after award of a signed contract.

D. Maintenance and Repairs – 10 points

    a. Supply the name, address and phone number for the nearest services center with factory trained service technicians. The services center should have the ability to have a technician on site within 3 hours for emergency repairs.

E. Qualifications and Experience - 10 points

    a. Provide a written description of qualifications and experience in providing fuel management systems. This must include a description of the firm's overall qualifications and experience, plus a description of the qualifications and experience of the individuals to be assigned to the project.

F. References - 5 points

    a. Include three references to similar projects completed by the vendor for local government clients of similar size to the City of Porterville in the past two years. These references should include a description of the work performed, date on which the work was performed, the contact name, telephone number, and address for the client agency

G. Fee Proposal - 15 points

    a. The information requested in this section is required to support the reasonableness of your quotation and is for internal City use only. The Cost should be separated in an itemized list for each of the following, Site Installation, Asset Retrofitting, Hardware,

Software, Technical Support to Interface Data, Conversion of Existing Data, and an estimated annual cost to operate the system including Technical Support.

b. The fee proposed must include the total estimated cost for the project when it is 100% complete. This total may be adjusted after negotiations with the City and prior to signing a formal contract, if justified.

H. Authorized Negotiator

a. Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the agreement with the City.

I. Attachments

a. Required forms to be completed and attached with the proposal.

Project Restrictions

A. Time is of the essence for the project. The Proposer shall complete the specified work within ninety (90) working days from the date of execution of the Agreement.

B. The City hours of operation are from 6:00 a.m. to 5:00 p.m., Monday to Friday. The Proposer may work outside of these hours with prior approval from the City. No request to work outside operating hours will be unreasonably denied.

C. Proposer is expected to provide a price proposal and detailed budget to complete all work detailed in the scope of work. All fees for elements contained in this scope of work should be included in the proposal. A total proposed "Not to Exceed" Fee for goods and services, including a Fee Schedule describing all charges and hourly rates for services shall be negotiated between the CITY and Proposer for this project.

D. Proposer is required to obtain a CITY Business License and must be registered to do business in California with the Secretary of State.

E. Proposer is required to obtain all necessary permits, certifications, testing, and authority to construct and permit to operate from the San Joaquin APCD.

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

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

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

1. **NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.**
   [These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

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

2. **NOTIFICATION TO FTA.**
   [These requirements apply to all contracts and subcontracts in excess of $25,000.]

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

   A. **Types of Legal Matters Requiring Notification**. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

   B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

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

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.
[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.

C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.

D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

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

6. CIVIL RIGHTS

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

FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. **Nondiscrimination in Federal Public Transportation Programs.**

1. Contractor must prohibit: (**a**) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (**b**) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

2. Contractor must follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

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

1. Contractor must prohibit discrimination based on race, color, or national origin;

2. Contractor must comply with: (**a**) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (**b**) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21; and (**c**) Federal transit law, specifically 49 U.S.C. § 5332; and

3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. **Equal Employment Opportunity**.

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

Requirements and Guidelines for Federal Transit Administration Recipients." Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.

3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."

6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).

7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

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

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

8. FREE SPEECH & RELIGIOUS LIBERTY

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

9. FEDERAL TERMINATION RIGHTS

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

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

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

A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any

federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.

C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

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

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

11. TERMINATION

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

12. VIOLATION & BREACH OF CONTRACT

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

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

A. **Dispute Resolution**. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise

furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.

B. **Performance During Disputes**. Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

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

13. LOBBYING RESTRICTIONS

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

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

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

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

A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least

50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381);

B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

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

15. FLY AMERICA

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

A. As used in this clause: **(1) "international air transportation"** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) "United States**" means the 50 States, the District of Columbia, and outlying areas; and **(3) "U.S.-flag air carrier"** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

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

_____

(End of statement)

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

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

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

1. For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

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

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

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

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

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

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

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.

2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

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

4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

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

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

18. VETERANS EMPLOYMENT

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

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

19. BONDING

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

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

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.

C. A payment bond on the part of Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

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

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

A. **U.S. DOL Certification**. To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL

Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.

B. **Special Warranty**. If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

C. **Special Arrangements**. If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

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

21. CHARTER SERVICE

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

A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.

B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from

receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.

C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

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

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (**A**) federal transit laws, specifically 49 U.S.C. § 5323(f); (**B**) FTA regulations, "School Bus Operations," 49 CFR part 605; (**C**) any other Federal School Bus regulations; or (**D**) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

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

A. **Financial Responsibility**. Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

B. **U.S. FMCSA Requirements**. Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Federal Motor Carrier Safety Regulations," 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver's license requirements of U.S. FMCSA regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. part 383, and "State Compliance with Commercial Driver's License," 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S.

FMCSA's regulations, "Drug and Alcohol Use and Testing Requirements," 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

A. Seat Belt Use. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or AGENCY.

B. Distracted Driving. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

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

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

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

A. **Definitions**. As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).

B. **Executive Order**. This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned

vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

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

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

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

A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or the City of Phoenix, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.

B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Phoenix Public Transit Department, 302 N. 1st Avenue, Phoenix, AZ 85003. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

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

A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products

used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.

C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

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

29. AIR POLLUTION & FUEL ECONOMY

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

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

30. ROLLING STOCK LIMITATIONS

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

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

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

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

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

32. BUS TESTING

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

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

33. ENVIRONMENTAL PROTECTIONS

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

2. **National Environmental Policy Act.**
   1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (**a**) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (**b**) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42

U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (**c**) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (**d**) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (**e**) other federal environmental protection laws, regulations, and requirements applicable to Contractor.

2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.

3. **Environmental Justice.** Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws**. Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order Nos. 11988 and 13690 relating to "Floodplain Management."

5. **Use of Certain Public Lands**. Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as "section 4(f)), and joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.

6. **Historic Preservation**. Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as "section 4(f)"), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic

Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.

7. **Indian Sacred Sites**. Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

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

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

35. ENERGY CONSERVATION

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

36. RECYCLED PRODUCTS (SOLID WASTES)

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

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

maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

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

A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes": (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject

data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

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

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

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

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

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting

system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

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

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

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

43. DBE REQUIREMENTS

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

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

A. General Requirements

1. **Applicable Federal Regulations**. This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.

2. **DBE Participation**. For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation**. The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).

4. **DBE Certification**. Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.

5. **Civil Rights Assurances**. As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

   "The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and

administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible."

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

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

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

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

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

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

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

□ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;

2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;

4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR –

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

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

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

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

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

OR

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

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

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

OR

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF_____

_____declares and says:

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

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

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

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

The Proposer certifies that:

1. It has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;

2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF "BEST VALUE" SELECTION PROCESS

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

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

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

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

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

Recitals

A. City desires to retain Contractor to complete a 2025-2030 Short Range Transit Plan (Project); and

B. On July 23, 2024, the City issued a Request for Proposals (RFP) for the 2025-2030 Short Range Transit Plan (Project). On August 22, 2024, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.

C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work**. Contractor shall provide the goods and services required to complete the Project, described in Exhibit "A" attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City's prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.

2. **Time of Performance**. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started

and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

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

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

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

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

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

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

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

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

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

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

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

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

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

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

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

1.1. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than

$4,000,000 general aggregate and $2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

1.2. Automobile Liability (with coverage at least as broad as ISO CA 00 01 07 097, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

1.3. Workers' Compensation coverage shall be maintained as required by the State of California.

1.4. Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than $1,000,000 per claim.

1.5. Endorsements. Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

1.5.1. The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

1.5.2. For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

1.6. Notice of Cancellation. Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

1.7. Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

1.8. Insurance Certificate. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

1.9. Substitute Certificates. Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

1.10. Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and

the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination**. The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

3. **Dispute Resolution**. If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

   3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.

   3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,

   3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

   3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.

   3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

   3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

4. **Labor Code Compliance**. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors

and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates**. These prevailing wage rates are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

6. **Registration with DIR**. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5

7. **Monitoring**. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

8. **Ownership of Work**. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

9. **Independent Contractor Status**. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

10. **Conflicts of Interest**. Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.

11. **Rebates, Kickbacks, or Other Unlawful Consideration**. Contractor warrants this this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:	To Contractor
City of Porterville	_____
Transportation Department	_____
291 N. Main Street	_____
Porterville, CA 93257	_____

13. Miscellaneous

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

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

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

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

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

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

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

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin, handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

13.7. Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.

13.8. Business License. Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.

13.9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

13.10. Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

13.11. Severability. If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

13.12. Controlling Provisions. In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.

13.13. Entire Agreement. This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13.14. Counterparts. City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

13.15. Expenses for Enforcement. Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

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

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

City of Porterville 291 N. Main Street Porterville, CA 93257	**Contractor** _____ _____
By: Martha A. Flores_____	By: _____
Title: Mayor_____	Title: _____
Date: _____	Date: _____
	Federal Employer Tax ID No. _____
Signature: _____	Signature: _____

Attest:

_____
Patrice Hildreth, City Clerk

Approved as to form:

_____
Julia M. Lew, City Attorney

Exhibits:

A. RFP No. 2025-2030 Short Range Transit Plan
B. Contractor Proposal
C. Compensation

Attachment 1

Fleet and Fuel Management Technical Specifications

1.0 General Requirements	Comply	Comments
System manufacturer must have a minimum of ten (10) years' experience in the design and manufacture of fuel management equipment.		
The proposed system must conform to ISO 9001:2000 standards for quality management systems.		
System shall be ETL listed and approved for electrical, fire, and mechanical safety.		
The system must be expandable for future expansions in the number of fuel sites, vehicles, drivers, dispensers and nozzles.		
2.0 Fueling Procedure		
The system shall allow automated and manual fueling.		
In the fully automated mode, all control, authorization and accounting operations will be conducted automatically by the fuel management system with no manual input required by the operator using the fuel		

facility. The automated fueling procedure shall be as follows:		
The system shall automatically identify the vehicle when the fuel nozzle is inserted into the vehicle's fuel inlet.		
The system shall turn on the corresponding fuel dispenser only if the vehicle is authorized for fueling as determined by the site controller set of conditions as described hereafter.		
The system shall automatically suspend fueling if the nozzle is removed from the vehicle fuel inlet or no pulses are detected from the fueling pump.		
The system shall append to the same transaction if the nozzle is re-inserted into the same vehicle within a specified period of time. The transaction shall be terminated if the specified period of time elapses or if the dispenser is turned off.		
When vehicle data modules are installed, the controller shall store the fuel transactions, odometer reading and engine hour.		
The system shall also have the capability to capture other vehicle data such as idle time, speeding, distance, PTO, up to two auxiliary engine hour timers, and other On-Board Diagnostic (OBD) vehicle error codes into a		

centralized management and reporting system.		
In manual fueling, a contactless tag or card with no moving parts shall be available as alternative method for initiating a fueling transaction.		
A two-stage authorization process shall be provided by identifying both the vehicle and the driver prior to refueling. Both driver and vehicles IDs should be stored in the transaction. The two-stage authorization process should be flexible enough to link the vehicle device either to a specific driver or to a list of drivers.		
3.0 System Description		
3.1 System Configuration		
The site controller shall be a stand-alone unit comprising all required peripherals including the central processing unit, display panel, pump control module, communication modules, and optional receipt printer.		
The site controller shall be web enabled to allow independent real-time control, monitoring and reporting via the web using user ID with password and SSL protected link (https://).		

In the automated mode, the passive fuel ring or passive tag installed around the fuel inlet on the vehicle shall be used for automated fuel authorization.		
The site controller shall have a wireless access point communicate to all forecourt devices including the nozzle readers and vehicle data modules.		
The nozzle readers shall communicate with the passive fuel ring or passive tag for fuel authorization.		
The wireless access point shall communicate with wireless vehicle data module to retrieve data such as odometer reading, engine hours, fault codes, and idle time at a minimum.		
The site controller shall communicate with a secure multi-tenant Cloud Hosted Software for the purpose of centralized control and monitoring of multiple sites.		
Must be capable of handling several hundred sites.		
Refueling shall take place regardless of the connectivity to the Cloud Software.		
Refueling limits and restrictions shall be 'pushed' from the Cloud Hosted Software to all fuel site controllers enabling off-line		

refueling with limits and restrictions also when communication is not available.		
3.2 System Operation		
Upon insertion of the nozzle into the vehicle fuel inlet the nozzle reader device shall communicate with the passive fuel ring, retrieve data for fuel authorization, and transmit the data to the wireless access point.		
If the vehicle has a vehicle data module installed, the wireless access point shall detect the vehicle at the fuel site and retrieve data such as an odometer reading, engine hours, fault codes, and idle time from the vehicle data module.		
The wireless access point shall append the passive fuel ring or passive tag to the vehicle module data and transfer it to the site controller.		
The site controller shall authenticate the data retrieved from the vehicle and check it against the existing set of limits and restrictions. If all conditions are met, the site controller shall authorize immediate refueling.		
If the nozzle is removed during the refueling process, the nozzle reader device shall detect the removal and shall send an indication through the wireless access point to suspend refueling. When the nozzle is reinserted		

within a specified (configurable) period of time, refueling shall resume.		
At the end of the refueling process, the nozzle is reinserted into the dispenser cradle and the transaction data is sent from the site controller to the Cloud Hosted Software.		
Vehicle not installed with passive fuel ring or passive tag shall have the possibility to use manual authorizing devices including contactless cards or tags.		
4.0 Site Controller		
4.1 General		
The site controller shall control up to 8 mechanicals and / or 48 electronic hoses in one terminal.		
The site controller shall store up to 25,000 transactions and 50,000 vehicles/devices with the ability to set limitations and restrictions.		
The site controller shall be available for refueling 24/7.		
Site controller shall work in online and off-line modes, in case of communication failures with the Cloud Hosted Software.		

When communication is established again, the system shall synchronize data automatically.		
The site controller shall have an embedded hardware platform designed to survive the harsh fueling depot environment.		
The site controller shall use a solid-state Flash disk and RTC (Real Time Clock) with back up, along with surge suppressors for transient and noise immunity.		
The system shall include a power fail recovery mechanism. The CPU shall have no edge connectors and no hard disk (no moving parts).		
The site controller shall have a high-level data protection through two separate isolated TCP/IP Ethernet network ports. One port shall be used for site peripherals interface and the second port for external communication to the network (Remote access, Cloud Hosted Software and 3rd party systems) protected by SSL security.		
The site controller shall have the following additional capabilities:		
• Secured remote capabilities for monitoring, management and maintenance activities		
• Flexible with all types of communication including		

TCP/IP, wireless Ethernet bridge modems, and cellular communications.		
• Web enabled reporting and alarms for Tank Level Sensing (TLS) systems (Veeder Root-350 and VR-450 protocols)		
• Fuel management software for reconciliation reports		
• Accessible via Internet browser to control and monitor the system. No requirement to install dedicated software.		
• Real time web-based dynamic graphical monitoring and control of dispensers		
• Remotely open a pump and limit the quantity to a specific transaction		
• Able to update fuel price at a specific time		
• Remote maintenance, remote troubleshoot and remote software upgrades of the various components of the system		
The following physical, electrical and environmental specifications shall be provided:		
• Supply voltage: 100 – 240 VAC		
• Power consumption: 2A max.		
• Operating temperature without printer: -40 F to +149 F (-40 C to +65 C)		
• Operating temperature with printer: -40 F to +140 F (-40 C to +60 C)		
• Communication interface: RS-485–9600 bps, Half-Duplex, RS-		

232, Ethernet RJ-45-10 Mbps, EIA 802.15.4		
4.2 Tank Level Sensing (TLS) Interface		
The site controller shall support Veeder Root TLS 350 and Veeder Root TLS 450 protocols		
The TLS will be connected to the site controller via TCP/IP communication port or the RS-232 port to allow fuel management capabilities.		
The site controller shall have the possibility to define the following communication parameters; Baud rate, Parity, Data bit, Stop bit, and Flow control.		
The site controller shall collect the following data from TLS equipment:		
• 12:00 midnight shift inventory volume for tanks		
• Tank inventory level; CSLD (Leak Detection) status – Pass/Fail		
• Fuel delivery information; Water Level		
• Water levels, Temperature, Alarms (Leak, Overfill, Sump, Sensor, etc)		
• Alarms shall flash continuously on the main screen and could be sent via email		

4.3 The Pedestal		
The pedestal shall be a slim powder coated metal designed for easy installation and service with a painted stainless-steel base option. The paint application for the entire pedestal terminal shall consist of a positive/negative charged ionization process for superior bonding. All materials shall be tested to sustain Oil, Fuel, Sun, Water and Salt.		
There shall be 4 pedestal options:		
• Standard with dimensions of 11.5" (29.2cm) x 11.8" (30 cm) x 62.2" (158 cm) tall		
• ADA: 11.5" (29.2cm) x 11.8" (30 cm) x 50" (128 cm) tall		
• Stainless Standard: Same dimensions as the standard and painted to match the head.		
• Stainless ADA: same dimensions as the ADA and painted to match the head		
The pedestal shall allow front door access for maintenance and wiring and shall enable flexible installation on the fueling island.		
The pedestal display panel shall consist of:		
• Illumination for keyboard and display		
• Multimedia Color Display		
• Full Alphanumeric Vandal Proof Keyboard		

• Contactless Card/Tag Reader		
• Wireless access point for use with passive fuel ring or passive tag for wireless vehicle identification (optional)		
• Horizontal Magnetic Card Reader (optional)		
• HID Reader (optional)		
4.4 Receipt Printer (optional)		
Optional outdoor receipt printer with 40m x 57mm paper roll including automatic paper cutter and alarms indicating low-paper and paper-out (alarms shall be available via email and displayed online with secured access)		
4.5 Site Controller Software		
The system shall be based on web server technology and enable easy secured (SSL) remote access through the network using a standard PC with an internet browser, without the need for any other software application.		
The browser interface shall allow control and monitoring, maintenance activities, report generation with advanced filters and templates, graphical monitoring of fuel levels, on-line pump monitoring, and more.		
The site controller shall support mechanical and electronic dispensers. All links shall be		

protected and isolated for maximum reliability.		
The system shall store transaction data as well as driver and vehicle records into its database using FLASH disk. Other critical data such as fueling limits and restrictions shall also be stored in the database.		
The system shall have the ability to use the following authorization devices:		
• Passive fuel rings or passive tags		
• Wireless Vehicle data modules		
• Contactless cards or tags		
• Mag. Cards (track 2 and 3)		
• Keyboard entry authorization		
• Optional HID reader		
Authorization schemes shall include the following scenarios:		
• Single device authorization		
• Two stage authorization (based on two authorization devices)		
• Add-on keyboard entries: PIN code, vehicle ID, odometer reading, engine hours, and or job code.		
The system shall have the option to collect data from driver before refueling, such as: PIN, Odometer, vehicle ID, etc.		
The system shall provide odometer reasonability checks for data accuracy.		

The site controller shall allow the possibility to work offline with all limits and restrictions		
System shall have the option to approve or decline refueling according to pre-defined limits and restrictions for the specific unit. Such limitations shall include:		
• Limit of daily, weekly and monthly refueling volume or sales amount.		
• Enable or disable vehicle refueling on specific days (weekdays for example) and/or specific time slots within a day (nighttime for example)		
• Limit the maximum refueling sessions for a specific vehicle per day, week or month.		
• Block specific stations for a specific vehicle (if vehicle is restricted for operation in a specific zone).		
• Restriction of specific fuel types for refueling of a specific vehicle.		
5.0 Wireless access point		
The wireless access point shall be integrated into the site controller.		
The wireless access point shall retrieve data from the passive fuel ring or passive tag and the vehicle data modules.		
The wireless access point shall decrypt the protected data and send the complete vehicle		

information to the site controller using a TCP/IP Ethernet link.		
The wireless access point shall include two wireless channels (802.15.4) with two antennas that work simultaneously to overcome possible blocking of the RF or channel.		
The wireless access point shall communicate with the nozzle reader device and the vehicle data modules using a short range 2.4 GHz wireless communication.		
The wireless access point shall identify the vehicle at the fuel site.		
6.0 Nozzle reader device		
The nozzle reader device shall not have any wires		
The nozzle reader device shall read the data off the passive fuel ring or passive tag (mounted around or near the vehicle fuel inlet) and transmit the encrypted data over wireless link to the wireless access point.		
The nozzle reader device shall read the passive fuel ring or passive tag using contact-less technology with anti-spoofing mechanism to protect against cloning of vehicle devices (recording the pattern that is		

transmitted by a specific vehicle and creating a clone).		
The nozzle reader device shall transmit the encrypted fuel ring data to the wireless access point installed in the fuel island using a 2.4 GHz encrypted wireless network communication		
The nozzle reader device shall be a self-contained unit installed on the nozzle. No wires shall be connected to the nozzle reader device.		
The nozzle reader device shall have a customized design for most common nozzle types.		
Must have a version to fit high speed nozzles.		
The nozzle reader device shall fit onto existing fueling nozzles and cradles of most common dispensers.		
The nozzle reader device shall have a green LED light to indicate:		
• The nozzle reader device has detected a passive fuel ring or passive tag		
• The nozzle reader device is in operation		
7.0 Passive fuel ring or passive tag		

The passive fuel ring or passive tag shall be mounted around the vehicle fuel inlet.		
The passive fuel ring or passive tag encrypted data shall be read by the nozzle reader device using RFID contact-less technology.		
The passive fuel ring or passive tag shall be a low-cost device designed for vehicle identification and fuel transaction recording only.		
The fuel ring shall have the following characteristics:		
• Does not require a hard-wire connection to vehicle module		
• Passive transponder (No power source required)		
• No wiring		
• No RF interferences.		
• Easy to install (No professional manpower shall be required)		
• Install within a few minutes		
• Available in various sizes to meet most vehicle requirements		
• The passive fuel ring or passive tag shall have an anti-theft and tamper resistant if it is removed from the vehicle		
• The passive fuel ring or passive tag shall have the following environmental specifications:		
• Operating temperature range: -40C to +85C		

• Bounce and vibration to meet automotive requirements		
8.0 Vehicle Data Modules		
The following vehicle data modules shall be available:		
8.1 Vehicle data module for OBDII		
Must be a plug-in vehicle data module for CANBUS protocol		
Software updates to the vehicle data bus modules shall be accomplished through the site controller.		
The vehicle module shall be capable to be installed on any vehicle type with an OBDII connector using CANBUS protocol.		
It shall also be able to connect to older vehicle which have vehicle speed sensor (VSS) for odometer reading and engine hour reading.		
The vehicle data bus modules shall be easily installed by non-technical personnel.		
8.2 Vehicle data module for J1708 and J1939		

The vehicle module shall be a miniature wireless device. The module shall be wired to the vehicle diagnostic connector (J1708 or J1939) or use a quick connect cable intended for heavy vehicles and trucks.		
It shall also be able to connect to older vehicle which have vehicle speed sensor (VSS) for odometer reading and engine hour reading.		
9.0 Vehicle Programmer		
Vehicle programmer should be wireless and used to program passive ring or passive tag and vehicle data modules.		
Vehicle programmer should be wireless for easy diagnostics of passive ring or passive tag and vehicle data modules.		
10.0 Cloud Hosted Software		
The Cloud Hosted Software must be modular in design. The intent is single sign on for all things fleet related.		
10.1 General Information		
The cloud software system must be modular in design.		

Ability to enroll and un-enroll in modules and features based on customer needs.		
The system shall be a cloud-based web server communicating with all sites to provide centralized data base and on-line network access for fleet managers, key personnel, and remote maintenance entities, providing 24/7 on-line access through the network.		
The cloud hosted software shall create and control several fleets and departments and support different privilege levels for limited access for different users (for example, a Fleet manager can only manage the Vehicles in his/her own Fleet).		
The cloud hosted software shall provide advanced on-line services for multiple sites and multiple fleets in a region.		
The cloud hosted software shall support multiple fuel sites/equipment and allow data consolidation.		
The cloud hosted software shall synchronize data with all sites in near real-time.		
The cloud hosted software shall provide secure log-in through the Web for each fleet manager, for monitoring & control and report generation including exception reports.		
The cloud hosted software application can		

interface to other applications via Web Services, import and export of files to FTP and ODBC standard.		
The cloud hosted software should have ability to show all fuel suppliers available in the US and allow you to select which ones can service our fuel locations.		
The cloud hosted software must have an optional, private cellular network to connect to devices such as inventory monitors, card readers, and other petroleum equipment.		
The cloud hosted software web interface shall use SSL security.		
Cloud hosted software shall be able to integrate with Active Directory SSO or similar application.		
10.1.1 Fuel Site Module		
Must have Fuel Control and Transaction Tracking.		
Must enhanced transaction reporting with ability to export data.		
.		
Must have ability to have a Fleet Fuel card acceptance – Local auth or networked.		
Must have Direct “live” connection to Card Reader from your desktop or mobile device.		

Must have the ability to create custom exports and data feeds to other back office software systems (Oracle, SAP, etc)		
Must have full inventory reconciliation with Bill of Lading and Veeder Root TLS deliveries.		
Must have direct “live” connection to Veeder Root TLS from your desktop or mobile device.		
Must have ability to capture and regenerate reports from the Veeder Root TLS such as but not limited to:		
Delivery Report, Leak test Results, leak test history, alarm sensor status, CSLD results, alarm history report.		
Must be able to integrate with Veeder-Root, Smart Tank, Centeron, Levelcon, and Numerex Tank Monitoring Systems.		
<u>10.1.2 Fuel Card Module</u>		
Must have embedded fleet fuel card offering inside the system so there is no need to sign on to multiple systems.		
Must aggregate all retail transactions into the software system to see both onsite and offsite transactions.		

Must allow scoping for users to only see specific departments data, including fuel cards, vehicles, drivers, and transactions		
Must be able to generate monthly invoices for retail purchases.		
Must be able to visually represent retail purchases relative to “home-based sites” and identify areas of unnecessary retail purchases.		
Must be able to identify exception reports for fleet managers including but not limited to transaction velocity, premium fuel purchases, zero odometer transactions, other purchases such as service and wash jobs.		
Must be able to consolidate retail reporting with onsite data from the fuel control system so there is no need merge multiple data sets.		
10.1.3 Bulk Fuel Module		
Fully integrated bulk fuel dispatch system that allows users to order fuel directly from the software system.		
Ability to identify possible red flags or billing discrepancies based on delivery data keyed in by users.		

Must have a digital document repository library of Invoices, BOL's, Driver Tickets, etc.		
Ability to connect with and manage various suppliers through a connected web of bulk fuel loading racks (Supplier Management).		
Fuel Supplier scorecard based on an index with rack average, published freight rates and other approved fuel suppliers pricing.		
Ability to benchmark supplier prices against a national standard such as DTN Rack Average + standard freight and margin.		
Ability to show market trends from real time data feed for all fuel racks in the US.		
10.1.4 Fleet Maintenance Module		
Must have the ability to create custom vehicle inspection forms.		
Must have the ability to be used on mobile or tablet view.		
Must have the ability to schedule inspections and PM's on set intervals for vehicles.		

Must have ability to assign technicians to vehicles and have all work automatically default to the correct Technician login page.		
Must have the ability to create technicians and allow technicians to login to restricted system for only their work.		
Must have the ability to enable a time clock feature with time tracking for technicians for payroll and productivity.		
Must have the ability to integrate with Telematics companies such as TeletracNavman, GeoTab, and Verizon Fleet.		
Must have the ability to create work orders and inspections for vehicles.		
Must have ability to add expense and service entries to vehicles.		
Must be able to calculate total cost per vehicle.		
Must be able to import parts list and assign parts during work orders.		
Must be able to generate “parts usage report” with custom date range.		

11.0 Service and Support		
Must have local distribution (within short driving distance to listed fuel sites) and manufacture certified technicians for installation and on-site service throughout the US.		
Must have project management team expertise with large national rollouts. Provide 3 references of rolling out hundreds of fuel sites.		
Must have 24-hour help desk support for software updates, troubleshooting, and training.		
12.0 Warranty		
Minimum of 12 months system Parts and Labor warranty.		
Be able to provide optional warranty up to 5 years.		

SUBJECT: Authorization to Distribute a Request for Proposals for Security Improvements

SOURCE: Public Works

COMMENT: The Request for Proposals (RFP) has been prepared for the Security Improvement Project. This project will involve the removal of the existing chain link fencing and the installation of approximately 3,000 linear feet of commercial-grade privacy fencing at the City's Corporation Yard. The primary goal is to enhance security by reducing visibility into the Corporation Yard and increasing the height of the fence.

The Corporation Yard is a critical infrastructure facility that houses valuable equipment and materials. Enhancing the security perimeter is essential to protecting these assets from potential theft and vandalism. The current fencing does not provide adequate privacy, thereby exposing the facility to external threats.

The project will adhere to environmental guidelines to ensure minimal impact on the surrounding area. The project will also comply with the American Society for Testing and Materials (ASTM) for commercial-grade chain link fencing.

The Independent Cost Estimate (ICE) for the project is $260,000. Funding is sourced from a Federal Transit Administration (FTA) grant amounting to $208,000. A local match of $52,000 is required, which will be covered by Local Transportation Funds (LTF). These funds have been appropriated in the FY 2024-2025 Budget. The negotiated contract will be brought back to City Council for final approval.

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

ATTACHMENTS: 1. Draft Request for Proposals

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
SECURITY FENCING



August 6, 2024

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

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

CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
SECURITY FENCING

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide Security Fencing.

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on September 21, 2024, at 10:00 am.

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

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

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

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

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

Publication Dates:

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Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 13, 2024
Required Site Tour	Not Required
Deadline to submit questions	August 29, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	October 9, 2024
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

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

Background

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

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

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

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

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

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

Preparation of Offer

1. Any person ("Proposer") submitting a Proposal ("Proposal") in response to this Request for Proposals ("RFP") shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to the awarded under this RFP (the "Contract"). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.

2. All forms provided must be completed and submitted with your Proposal.

3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer's errors or omissions.

4. All time periods stated as a number of days will be calendar days.

5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:

    1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

2) Study and carefully correlate Proposer's knowledge and observations with the RFP document and other related data.

3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.

4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.

6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

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

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

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

Business in California

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

Licenses

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

Certification

By signing the Proposal, proposer certifies:

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

Minimum Qualifications

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

Certificates of Insurance

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

Award of Contract

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

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

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

Solicitation Transparency Policy

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

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

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

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

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

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

Protest Process

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

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

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City's FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City's FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City's FTA Procurement and Contract Administration Manual

is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

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

Public Record

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

Right to Disqualify

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

Late Proposals

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

Pre-Bid Meeting

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on the date indicated in Section 1 ("RFP Schedule").

Contract Award

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

Determining Responsiveness and Responsibility

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

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

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

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

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other

sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

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

Clarifications

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

Detailed Evaluation of Proposals and Determination of Competitive Range

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

Proposals Not Within The Competitive Range

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

Discussions With Proposers In The Competitive Range

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

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

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

reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

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

Best and Final Offers (BAFO)

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

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

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

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

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

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

Contract Order Of Precedence

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

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

Organization – Employment Disclaimer

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

Severability

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

Non-Waiver of Liability

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

Parol Evidence

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

Contract Administration and Operation

Records

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

Discrimination Prohibited

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

may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

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

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

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

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

Health, Environmental and Safety Requirements

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

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

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.

- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

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

Compliance With Laws

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

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

Continuation During Disputes

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

Emergency Purchases

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

Costs and Payments

General

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

Payment Deduction Offset Provision

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

Late Submission of Claim By Contractor

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

Discounts

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

No Advance Payment

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

Fund Appropriation Contingency

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

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions,

as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

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

Contract Changes

Contract Amendments

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

Assignment – Delegation

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

Non-Exclusive Contract

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

Risk of Loss and Liability

Title and Risk of Loss

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

Acceptance

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

Force Majeure

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

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

Loss of Materials

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

Contract Performance

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

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

Damage to City Property

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

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

City's Contractual Rights

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

Non-Exclusive Remedies

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

Default In One Installment To Constitute Breach

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

On Time Delivery

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

Default

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

Covenant Against Contingent Fees

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

Cost Justification

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

Work Product, Equipment and Materials

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

Contract Termination

Gratuities

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

Conditions and Causes for Termination

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

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

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;

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

State and Local Transaction Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

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

Tax Responsibility Qualifications

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

in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

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

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

- Ability to take regular and necessary breaks as needed and additional breaks for hydration.

- Access to shaded areas and/or air conditioning.

- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.

- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.

- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

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

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

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

Post Award Conference

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

Estimated Quantities

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

Authorized Changes

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

Alteration In Character Of Work

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

Method Of Invoicing And Payment

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

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

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

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

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

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

Key Personnel

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

Strict Performance

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

Performance Interference

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

Unsatisfactory Performance

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

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

Employee Identification and Facility Access

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

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health

information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

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

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

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

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

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

Data Protection

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

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

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

(1) process PII only within the United States and only in accordance with the Contract and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;

(2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

(3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;

(4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for

Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;

(5) take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

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

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

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

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

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

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

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

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

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of

this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

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

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

(1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;

(2) act on newly acquired information whether or not such information should have been previously discovered;

(3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and

(4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

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

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be

deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

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

Non-Disclosure

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

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

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

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

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

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The

name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

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

Claims or Demands Against The City

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

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

Conflicts of Interest

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

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

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor,

terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

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

Contractor's Insurance

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

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

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

Commercial General Liability – Occurrence Form

General Aggregate - $4,000,000

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

Personal and Advertising Injury - $1,000,000

Fire Damage - $1,000,000

Each Occurrence - $1,000,000

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

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

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

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

Automobile Liability

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

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

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

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

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.

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

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

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident $100,000

Disease – Each Employee $100,000

Disease – Policy Limit $500,000

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

Property Insurance – Contractor's Property and Equipment

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

Additional Insurance Requirements

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

1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.

2) Contractor's insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.

3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

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

Acceptability of Insurers

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

Verification of Coverage

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

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

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

Section V - SCOPE OF WORK

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

The City is seeking proposals to remove existing chain-link fencing and install new commercial grade privacy chain-link fencing. The length of fencing is approximately 3,000' and the project will be located at 555 N. Prospect St., Porterville, CA 93257 (map below).



General Specifications

1. Height: 8', no barbed wire overhang.
2. Fabric: Chain link, 2" mesh x 9 gauge to desired height. Manufactured from the highest quality galvanized wire. In accordance with ASTM-A392-81-Class 1.
3. Privacy Slats: 8', color can be brown, green, gray, or beige. High Density Polyethylene (HDPE)
4. Line Posts: 2 3/8" O.D. galvanized pipe complete with post tops. No barbed wire overhang arms. In accordance with ASTOM-A120 Schedule 40 heavy wall.
5. Top Rail: 1 5/8" O.D. galvanized pipe coupled with slip on rail sleeves for every standard length generally 21" in length. In accordance with ASTOM-A120 Schedule 40 heavy wall. The City desires to reuse existing top rail if possible.
6. Terminal Posts: End, Corner and gate posts: 3 ½" O.D. galvanized pipe, furnished complete with all necessary bracing, fittings, etc. Gate posts for single gate panels over 16' wide and

double panels over 32’ wide use 4 ½’ O.D. pipe. In accordance with ASTM-A120 Schedule 40 heavy wall.

7. Bottom Wire: 9 gauge galvanized steel.
8. Post Spacing: Line posts are spaced in line fence, maximum 10’ apart.
9. Post Footings: All line and terminal posts shall be set in concrete footings of the proper diameter and shape to ensure support.

Proposal Format

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

1. Cover Letter
    a. Cover letter shall introduce the Proposer and establish interest in providing commercial grade chain link privacy fencing that meet the requirements of the City.
        i. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement
    a. Indicate how many years of experience Proposer has in the installation of commercial grade chain link fencing.
3. Describe procedures in place to provide assurances that commercial grade chain link privacy fencing will meet the needs of the intended use for the City.
4. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address that have purchased units similar to the City’s request.
5. Provide a contract price proposal
6. Provide an estimated project schedule
7. Complete and submit all required forms

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

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

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

1. **NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.**
   [These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

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

2. **NOTIFICATION TO FTA.**
   [These requirements apply to all contracts and subcontracts in excess of $25,000.]

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

   A. **Types of Legal Matters Requiring Notification**. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

   B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

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

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.
[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.

C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.

D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

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

6. CIVIL RIGHTS

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

FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. <u>Nondiscrimination in Federal Public Transportation Programs.</u>

1. Contractor must prohibit: (**a**) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (**b**) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

2. Contractor must follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. **<u>Nondiscrimination – Title VI of the Civil Rights Act</u>**.

1. Contractor must prohibit discrimination based on race, color, or national origin;

2. Contractor must comply with: (**a**) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (**b**) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21; and (**c**) Federal transit law, specifically 49 U.S.C. § 5332; and

3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. **<u>Equal Employment Opportunity</u>**.

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

Requirements and Guidelines for Federal Transit Administration Recipients." Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.

3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."

6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).

7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

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

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

8. FREE SPEECH & RELIGIOUS LIBERTY

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

9. FEDERAL TERMINATION RIGHTS

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

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

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

A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any

federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.

C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

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

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

11. TERMINATION

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

12. VIOLATION & BREACH OF CONTRACT

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

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

A. **Dispute Resolution**. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise

furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.

B. **Performance During Disputes**. Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

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

13. LOBBYING RESTRICTIONS

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

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

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

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

A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least

50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381);

B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

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

15. FLY AMERICA

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

A. As used in this clause: **(1) "international air transportation"** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) "United States**" means the 50 States, the District of Columbia, and outlying areas; and **(3) "U.S.-flag air carrier"** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

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

_____

(End of statement)

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

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

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

1. For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

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

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

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

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

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

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

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.

2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

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

4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

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

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

18. VETERANS EMPLOYMENT

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

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

19. BONDING

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

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

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.

C. A payment bond on the part of Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

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

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

A. **U.S. DOL Certification**. To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL

Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.

B. **Special Warranty**. If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

C. **Special Arrangements**. If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

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

21. CHARTER SERVICE

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

A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.

B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from

receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.

C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

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

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (**A**) federal transit laws, specifically 49 U.S.C. § 5323(f); (**B**) FTA regulations, "School Bus Operations," 49 CFR part 605; (**C**) any other Federal School Bus regulations; or (**D**) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

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

A. **Financial Responsibility**. Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

B. **U.S. FMCSA Requirements**. Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Federal Motor Carrier Safety Regulations," 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver's license requirements of U.S. FMCSA regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. part 383, and "State Compliance with Commercial Driver's License," 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S.

FMCSA's regulations, "Drug and Alcohol Use and Testing Requirements," 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

A. Seat Belt Use. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or AGENCY.

B. Distracted Driving. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

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

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

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

A. **Definitions**. As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).

B. **Executive Order**. This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned

vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

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

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

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

A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or the City of Phoenix, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.

B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Phoenix Public Transit Department, 302 N. 1st Avenue, Phoenix, AZ 85003. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

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

A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products

used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.

C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

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

29. AIR POLLUTION & FUEL ECONOMY

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

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

30. ROLLING STOCK LIMITATIONS

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

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

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

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

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

32. BUS TESTING

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

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

33. ENVIRONMENTAL PROTECTIONS

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

2. **National Environmental Policy Act.**
   1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (**a**) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (**b**) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42

U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (**c**) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (**d**) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (**e**) other federal environmental protection laws, regulations, and requirements applicable to Contractor.

2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.

3. **Environmental Justice.** Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws**. Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order Nos. 11988 and 13690 relating to "Floodplain Management."

5. **Use of Certain Public Lands**. Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as "section 4(f)), and joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.

6. **Historic Preservation**. Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as "section 4(f)"), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic

Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.

7. **Indian Sacred Sites**. Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

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

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

35. ENERGY CONSERVATION

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

36. RECYCLED PRODUCTS (SOLID WASTES)

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

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

maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

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

A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes": (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject

data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

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

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

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

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

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting

system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

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

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

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

43. DBE REQUIREMENTS

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

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

A. General Requirements

1. **Applicable Federal Regulations**. This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.

2. **DBE Participation**. For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation**. The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).

4. **DBE Certification**. Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.

5. **Civil Rights Assurances**. As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

   "The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and

administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible."

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

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

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

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

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

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

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

□ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;

2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;

4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR –

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

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

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

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

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

OR

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

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

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

OR

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF_____

_____declares and says:

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

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

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

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

The Proposer certifies that:

1. It has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;

2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF "BEST VALUE" SELECTION PROCESS

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

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

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

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

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

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

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

Recitals

A. City desires to retain Contractor to complete a 2025-2030 Short Range Transit Plan (Project); and

B. On July 23, 2024, the City issued a Request for Proposals (RFP) for the 2025-2030 Short Range Transit Plan (Project). On August 22, 2024, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.

C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work**. Contractor shall provide the goods and services required to complete the Project, described in Exhibit "A" attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City's prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.

2. **Time of Performance**. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started

and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

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

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

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

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

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

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

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

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

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

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

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

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

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

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

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

1.1. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than

$4,000,000 general aggregate and $2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

1.2. Automobile Liability (with coverage at least as broad as ISO CA 00 01 07 097, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

1.3. Workers' Compensation coverage shall be maintained as required by the State of California.

1.4. Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than $1,000,000 per claim.

1.5. Endorsements. Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

1.5.1. The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

1.5.2. For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

1.6. Notice of Cancellation. Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

1.7. Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

1.8. Insurance Certificate. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

1.9. Substitute Certificates. Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

1.10. Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and

the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination**. The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

3. **Dispute Resolution**. If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

   3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.

   3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,

   3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

   3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.

   3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

   3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

4. **Labor Code Compliance**. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors

and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates**. These prevailing wage rates are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

6. **Registration with DIR**. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5

7. **Monitoring**. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

8. **Ownership of Work**. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

9. **Independent Contractor Status**. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

10. **Conflicts of Interest**. Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.

11. **Rebates, Kickbacks, or Other Unlawful Consideration**. Contractor warrants this this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:	To Contractor
City of Porterville	_____
Transportation Department	_____
291 N. Main Street	_____
Porterville, CA 93257	_____

13. Miscellaneous

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

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

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

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

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

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

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

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin, handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

13.7. Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.

13.8. Business License. Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.

13.9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

13.10. Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

13.11. Severability. If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

13.12. Controlling Provisions. In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.

13.13. Entire Agreement. This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13.14. Counterparts. City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

13.15. Expenses for Enforcement. Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

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

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

City of Porterville 291 N. Main Street Porterville, CA 93257	**Contractor** _____ _____
By: Martha A. Flores_____	By: _____
Title: Mayor_____	Title: _____
Date: _____	Date: _____
	Federal Employer Tax ID No. _____
Signature: _____	Signature: _____

Attest:

_____
Patrice Hildreth, City Clerk

Approved as to form:

_____
Julia M. Lew, City Attorney

Exhibits:

A. RFP No.XXX Trash Receptables
B. Contractor Proposal
C. Compensation

SUBJECT: Authorization to Distribute a Request for Proposals for Charging Station Replacement

SOURCE: Public Works

COMMENT: The Request for Proposals (RFP) has been prepared for the Charging Station Replacement Project. The project will include the removal of existing charging stations and the installation of new replacement charging stations located at City facilities. The goal of the project is to replace charging stations to improve reliability and reduce operational costs.

The Independent Cost Estimate (ICE) for this project is $1,585,000. Funding for this project is a Federal Transit Administration (FTA) grant in the amount of $1,267,625, of which $585,000 has been allocated to a previously awarded FTA grant. A local match of $317,375 is required, which will be covered by Local Transportation Funds (LTF). A portion of the funding has been allocated to the transit budget. The remaining funding is contingent on the adoption of the amended FY 2024-2025 Transit Budget. The negotiated contract will be brought back to City Council for final approval.

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

ATTACHMENTS: 1. Draft Request for Proposals

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
CHARGING STATION REPLACEMENT



August 6, 2024

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

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

CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
CHARGING STATION REPLACEMENT

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide replacement charging stations.

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on September 21, 2024, at 10:00 am.

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

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

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

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

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

Publication Dates:

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Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 13, 2024
Required Site Tour	Not Required
Deadline to submit questions	August 29, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	October 9, 2024
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

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

Background

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

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

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

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

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

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

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

Preparation of Offer

1. Any person ("Proposer") submitting a Proposal ("Proposal") in response to this Request for Proposals ("RFP") shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to the awarded under this RFP (the "Contract"). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.

2. All forms provided must be completed and submitted with your Proposal.

3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer's errors or omissions.

4. All time periods stated as a number of days will be calendar days.

5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:

    1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

    2) Study and carefully correlate Proposer's knowledge and observations with the RFP document and other related data.

3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.

4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.

6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

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

Communications to City

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

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

Addenda

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

Business in California

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

Licenses

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

Certification

By signing the Proposal, proposer certifies:

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

Minimum Qualifications

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

Certificates of Insurance

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

Award of Contract

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

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

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

Solicitation Transparency Policy

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

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

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

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

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

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

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

Protest Process

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

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

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

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

Public Record

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

Right to Disqualify

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

Late Proposals

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

Pre-Bid Meeting

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on the date indicated in Section 1 ("RFP Schedule").

Contract Award

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

Determining Responsiveness and Responsibility

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

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

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

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

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

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

Clarifications

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

Detailed Evaluation of Proposals and Determination of Competitive Range

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

Proposals Not Within The Competitive Range

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

Discussions With Proposers In The Competitive Range

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

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

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

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

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

Best and Final Offers (BAFO)

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

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

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

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

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

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

Contract Order Of Precedence

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

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

Organization – Employment Disclaimer

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

Severability

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

Non-Waiver of Liability

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

Parol Evidence

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

Contract Administration and Operation

Records

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

Discrimination Prohibited

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

Equal Employment Opportunity and Pay

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

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

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

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

Health, Environmental and Safety Requirements

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

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

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.

- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

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

Compliance With Laws

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

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

Continuation During Disputes

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

Emergency Purchases

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

Costs and Payments

General

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

Payment Deduction Offset Provision

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

Late Submission of Claim By Contractor

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

Discounts

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

No Advance Payment

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

Fund Appropriation Contingency

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

Maximum Prices

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

F.O.B Point

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

Contract Changes

Contract Amendments

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

Assignment – Delegation

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

Non-Exclusive Contract

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

Risk of Loss and Liability

Title and Risk of Loss

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

Acceptance

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

Force Majeure

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

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the

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

Loss of Materials

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

Contract Performance

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

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

Damage to City Property

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

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

City’s Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Transaction Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City

provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Transaction Privilege Taxes or California Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of

this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

- Ability to take regular and necessary breaks as needed and additional breaks for hydration.

- Access to shaded areas and/or air conditioning.

- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.

- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.

- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement ("Contract's start date"), and end when the City Council accepts the project as completed ("Contract's end date").

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor's sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term "process," "processing," or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

(1) process PII only within the United States and only in accordance with the Contract and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;

(2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

(3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;

(4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;

(5) take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

(1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;

(2) act on newly acquired information whether or not such information should have been previously discovered;

(3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and

(4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor ("Indemnitor") must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever ("Losses") caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors ("Indemnitor's Agents") arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses arising out of or recovered under any state's Workers' Compensation Law or arising out of the failure of Indemnitor or Indemnitor's Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor's duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor's duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnitee's own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Indemnitor or Indemnitor's Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor's Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a "following form" basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - $4,000,000

Products – Completed Operations Aggregate - $1,000,000

Personal and Advertising Injury - $1,000,000

Fire Damage - $1,000,000

Each Occurrence - $1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non- contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) $1,000,000

UM/UIM Per Person Limit $1,000,000

UM/UIM Per Accident Limit $1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.

- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident $100,000

Disease – Each Employee $100,000

Disease – Policy Limit $500,000

- Policy must contain a waiver of subrogation against the City of Porterville.

- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor's Property and Equipment

Contractor must maintain all risk property insurance for Contractor's personal property. The CITY will have no responsibility for any damage to Contractor's personal property and Contractor's property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.

2) Contractor's insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.

3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives**.

The City is seeking turnkey proposals to remove existing charging stations at each City facility and install new charging station equipment. All charging station equipment shall include a five (5) year parts and labor warranty and shall include scheduled preventative maintenance per the specifications of the manufacturer.

General Specifications

SCE Charge Ready Transportation Approved Equipment

- All proposed EVSE equipment must be listed on the SCE approved product list (Rebate Eligible).
- SCE Product List
- SCE Charge Ready Approved Network Provider
- Open Charge Point Protocol (OCPP)

Software Management

- Cloud based software
- 24/7 real time monitoring
- Load management tools
- Fleet management tools
- Retail sales management tools

Centennial Plaza

- Remove existing three (3) dual-port Chargepoint Level 2 (L2) charging stations and replace with three (3) dual-port new Level 2 charging stations.
- Charging Stations shall be configured for public and private fleets, and must comply with all applicable requirements.
- Dual-Port CCS

Transit Center

- Remove existing two (2) BTC Power DCFC (L3) charging stations and replace with two (2) new DCFC (L3) charging stations.
- Charging Stations shall be configured for public and private fleets, and must comply with all applicable requirements.

- DCFC output voltage shall be compatible with Heavy-Duty Transit Buses.

Corporation Yard

- Remove existing ten (10) BTC Power DCFC (L3) charging stations and replace with ten (10) new DCFC (L3) charging stations.
- Remove existing twelve (12) Tritium DCFC (L3) charging stations and replace with twelve (12) new DCFC (L3) charging stations.
- Charging Stations shall be configured for private fleets and must comply with all applicable requirements.
- DCFC output voltage shall be compatible with Heavy-Duty Transit Buses.

Warranty

- Five (5) Year Parts and Labor
- 98% uptime guarantee

Maintenance

- Proposer is required to provide the required scheduled preventative maintenance throughout the five (5) year warranty period.

Reliability

- Minimum 98% uptime

Certifications

- SCE Charge Ready Transport Approved Product and Approved Network Providers
- California Type Evaluation Program (CTEP)
- National Type Evaluation Program (NTEP)
- Buy America FTA

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer's ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
    a. Cover letter shall introduce the Proposer and establish interest in providing a turnkey replacement of existing charging station equipment that meet the requirements of the City.
        i. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement
    a. Indicate how many years of experience Proposer has in providing and the installation of L2 and DCFC equipment.

b. Indicate how many years of experience Proposer has in the preventative maintenance of L2 and DCFC equipment.

3. Describe procedures in place to provide assurances that charging stations will meet the needs of the intended use for the City.
4. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address that have purchased units similar to the City's request.
5. Provide a contract price proposal
6. Provide an estimated project schedule
7. Complete and submit all required forms

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. **NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.**
   [These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

   The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. **NOTIFICATION TO FTA.**
   [These requirements apply to all contracts and subcontracts in excess of $25,000.]

   If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

   A. **Types of Legal Matters Requiring Notification**. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

   B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

   C. **Additional Notice to U.S. DOT Inspector General**. Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.
[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.

C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.

D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Phoenix and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (**a**) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (**b**) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

2. Contractor must follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. **Nondiscrimination – Title VI of the Civil Rights Act**.
1. Contractor must prohibit discrimination based on race, color, or national origin;

2. Contractor must comply with: (**a**) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (**b**) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21; and (**c**) Federal transit law, specifically 49 U.S.C. § 5332; and

3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. **Equal Employment Opportunity**.
1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (**a**) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (**b**) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (**c**) Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (**d**) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (**e**) FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients." Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.

3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."

6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).

7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under $25,000.]

A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.

C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

D. Contractor agrees that it will not enter into any "covered transaction" (as defined at 2 CFR 180.220 and 1200.220) with any "third party participant" (as defined in Section 1 of FTA's Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government's "System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at $250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

A. **Dispute Resolution**. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.

B. **Performance During Disputes**. Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

C. **Rights and Remedies**. The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under $100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381);

B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

A. As used in this clause: **(1) "international air transportation"** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) "United States**" means the 50 States, the District of Columbia, and outlying areas; and **(3) "U.S.-flag air carrier"** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not

available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

_____

(End of statement)

E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of $2,000.]

1. For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of $100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of $100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided

that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. <u>Contract Work Hours/Safety Standards for Awards Not Involving Construction</u>

[These requirements apply to all contracts (not involving construction) in excess of $100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.

2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the

contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.

4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at $250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.

C. A payment bond on the part of Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

A. **U.S. DOL Certification**. To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.

B. **Special Warranty**. If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

C. **Special Arrangements**. If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

D. **Flow Down**. Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.

B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.

C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (**A**) federal transit laws, specifically 49 U.S.C. § 5323(f); (**B**) FTA regulations, "School Bus Operations," 49 CFR part

605; (**C**) any other Federal School Bus regulations; or (**D**) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

A. **Financial Responsibility**. Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

B. **U.S. FMCSA Requirements**. Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Federal Motor Carrier Safety Regulations," 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver's license requirements of U.S. FMCSA regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. part 383, and "State Compliance with Commercial Driver's License," 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA's regulations, "Drug and Alcohol Use and Testing Requirements," 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

A. Seat Belt Use. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or AGENCY.

B. Distracted Driving. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned

vehicle when on official business in connection with the work performed under this Contract.

C. Subcontracts. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. **Definitions**. As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).

B. **Executive Order**. This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

C. **Subcontracts**. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]

A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or the City of Phoenix, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.

B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Phoenix Public Transit Department, 302 N. 1st Avenue, Phoenix, AZ 85003. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over $150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.

C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (**A**) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (**B**) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (**C**) telecommunications or video surveillance services provided by such entities or using such equipment; and (**D**) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. **National Environmental Policy Act.**
    1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (**a**) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (**b**) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (**c**) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (**d**) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (**e**) other federal environmental protection laws, regulations, and requirements applicable to Contractor.

    2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.

3. **Environmental Justice.** Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in

Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws**. Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order Nos. 11988 and 13690 relating to "Floodplain Management."

5. **Use of Certain Public Lands**. Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as "section 4(f)), and joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.

6. **Historic Preservation**. Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as "section 4(f)"), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.

7. **Indian Sacred Sites**. Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under $150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;" (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of $10,000. See 40 C.F.R part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will

be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes": (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for

any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations**. This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.

2. **DBE Participation**. For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to

compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation**. The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).

4. **DBE Certification**. Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.

5. **Civil Rights Assurances**. As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

   "The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible."

   Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the "contractor" awarded the contract.

6. **Subcontracts**. If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under $25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

□ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;

2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;

4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR –

□ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over $150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of $150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

□ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

□ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of $150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

□ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

□ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF_____

_____declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).

2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.

3. That his/her proposal is genuine and is not collusive or a sham proposal.

4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,

5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under $100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;

2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and

3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF "BEST VALUE" SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a "Best Value" basis, which the Federal Transit Administration's (FTA) Best Practices Manual defines as follows:

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE
GENERAL SERVICES AGREEMENT WITH
[insert full name of Contractor and Project Name and/or number]

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Contractor to complete a Charging Station Replacement Project (Project); and

B. On August 13, 2024, the City issued a Request for Proposals (RFP) for the Charging Station Replacement project (Project). On September 26, 2024, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.

C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work**. Contractor shall provide the goods and services required to complete the Project, described in Exhibit "A" attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City's prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.

2. **Time of Performance**. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the

circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit "C", attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed $_____. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville's appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City's satisfaction, within 30 days after the City's receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor's services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall

adequately and correctly reflect the expenses incurred by the Contractor in the performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

4. **Indemnification.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

   In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

   In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

   (The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

   Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

   The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

1. **Insurance**. Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

   1.1. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than $4,000,000 general aggregate and $2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

1.2. Automobile Liability (with coverage at least as broad as ISO CA 00 01 07 097, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

1.3. Workers' Compensation coverage shall be maintained as required by the State of California.

1.4. Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than $1,000,000 per claim.

1.5. Endorsements. Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

1.5.1. The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

1.5.2. For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

1.6. Notice of Cancellation. Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

1.7. Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

1.8. Insurance Certificate. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

1.9. Substitute Certificates. Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

1.10. Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination**. The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

3. **Dispute Resolution**. If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

   3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.

   3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,

   3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

   3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.

   3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

   3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

4. **Labor Code Compliance**. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates**. These prevailing wage rates are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

6. **Registration with DIR**. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5

7. **Monitoring**. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

8. **Ownership of Work**. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

9. **Independent Contractor Status**. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

10. **Conflicts of Interest**. Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.

11. **Rebates, Kickbacks, or Other Unlawful Consideration**. Contractor warrants this this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. **Notices**. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after

the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:	To Contractor
City of Porterville Transportation Department 291 N. Main Street Porterville, CA 93257	_____ _____ _____ _____

13. Miscellaneous

13.1. Standard of Care. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. Compliance with Law. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin,

handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

13.7. Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.

13.8. Business License. Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.

13.9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

13.10. Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

13.11. Severability. If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

13.12. Controlling Provisions. In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.

13.13. Entire Agreement. This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13.14. Counterparts. City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

13.15. Expenses for Enforcement. Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

City of Porterville 291 N. Main Street Porterville, CA 93257	**Contractor** _____ _____
By: Martha A. Flores_____	By: _____
Title: Mayor_____	Title: _____
Date: _____	Date: _____
	Federal Employer Tax ID No. _____
Signature: _____	Signature: _____

Attest:

_____
Patrice Hildreth, City Clerk

Approved as to form:

_____
Julia M. Lew, City Attorney

Exhibits:

A. RFP No.XXX Charging Station Replacement
B. Contractor Proposal
C. Compensation

SUBJECT: Authorization to Distribute a Request for Proposals for Renewable Natural Gas Supplier

SOURCE: Public Works

COMMENT: The Request for Proposals (RFP) has been prepared for a Renewable Natural Gas (RNG) supplier. The selected supplier will assist the City in meeting its environmental and operational goals regarding the use of Compressed Natural Gas (CNG) powered fleet vehicles.

The City currently operates a fleet of vehicles powered by CNG. These vehicles are essential for the City's operations, providing a cleaner alternative to traditional gasoline or diesel-powered vehicles. In an effort to further reduce greenhouse gas emissions and promote sustainability, the City intends to enter into a supply contract for RNG.

RNG is defined as renewable gas under the proposed regulation SB 1383. The use of RNG will ensure that the City's fleet operations align with the state's environmental goals and regulatory requirements. Additionally, RNG for this purpose is exempt from California Cap and Trade (AB 32) reporting further simplifying compliance and reducing costs.

The proposed RFP will seek a supplier to provide RNG in an amount equal to the natural gas used by the City's CNG-powered fleet vehicles. The key objectives of the supply agreement are:
1) The agreement will enable the City to purchase RNG that meets the definition of renewable gas as per SB 1383,
2) Ensure that the RNG is exempt from California Cap and Trade (AB 32) reporting, and
3) The agreement will include provisions for the City to receive a percentage of the revenue generated from the sale of Renewable Identification Numbers (RIN) and Low Carbon Fuel Standard (LCFS) credits on the open market.

The benefits of the project include the following:
1) Using RNG will significantly reduce the carbon footprint of the City's fleet operation,
2) Compliance with SB 1383 and exemption from AB 32 reporting will streamline regulatory processes, and
3) The revenue from RIN and LCFS credits will provide an additional income stream for City, potentially offsetting some of the costs associated with RNG supply.

The FTA considers the purchase of fuel to be categorized as preventive maintenance, and the FTA provides federal financial assistance for up to eighty percent (80%) of the cost. A local match of twenty percent (20%) is required, which will be covered by Local Transportation Funds (LTF). These funds have been appropriated in the FY 2024-2025 Budget.

RECOMMENDATION: That the City Council:
1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

ATTACHMENTS: 1. Draft Request for Proposals

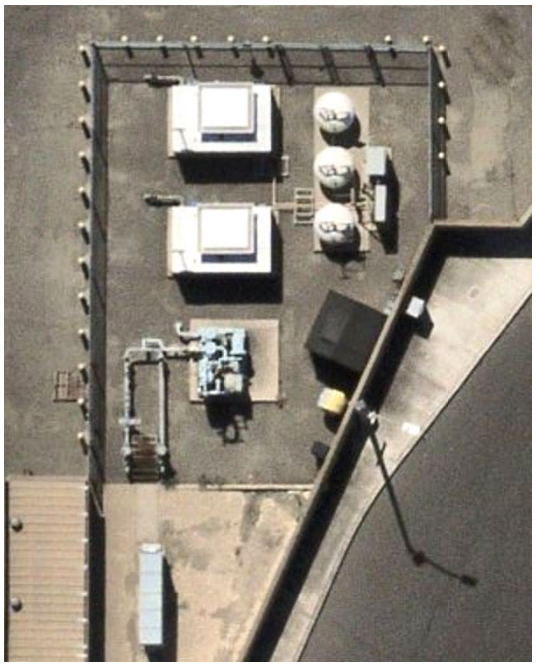
Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
RENEWABLE NATURAL GAS SUPPLIER



August 6, 2024

The City of Porterville does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the City's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities.

The project is funded in part by the Federal Transit Administration Catalog of Federal Domestic Assistance (CFDA) 20.500 and 20.507. The City of Porterville reserves the right to reject any or all proposals.

CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
RENEWABLE NATURAL GAS SUPPLIER

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide Renewable Natural Gas Supplier.

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on September 21, 2024, at 10:00 am.

This contract is federally funded and as such, the Federal Requirements associated with the performance of services under this contract have been included with this RFP. The awarded Proposer will be responsible for adherence to all local, state, and federal requirements listed herein. These requirements are hereby incorporated into the subsequent contract arising from this RFP.

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the process will be handled electronically through the Public Purchase website.

The City has not established a DBE goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract. The City of Porterville overall DBE goal is 1% of total contracts (including subcontracts) awarded.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded the full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Porterville will not be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military or veteran status in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates:

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Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 13, 2024
Required Site Tour	Not Required
Deadline to submit questions	August 29, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	October 9, 2024
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. No proposal shall be received from an individual or firm that has not accessed the proposal documents from the Public Purchase website. All addenda and correspondence during the process will be handled electronically through the Public Purchase website. Questions regarding this request for proposals must be submitted through the Public Purchase website.

Background

The City of Porterville ("CITY") is located in Tulare County, which is part of the Central San Joaquin Valley of California. The San Joaquin Valley is a rich agricultural area and Tulare County is recognized as the largest agricultural-producing county in the world.

Porterville has a land area of approximately 14.3 square miles (9,161 acres), situated at the base of the foothills of the Sierra Nevada Mountain Range. It is approximately 30 miles southeast of Visalia (the County seat); 60 miles northeast of Bakersfield, 165 miles northeast of Los Angeles, and 254 miles southeast of San Francisco. State Routes 65 and 190 bisect the community.

The Porterville City Council is the policy-making body for the City of Porterville's Transportation Department. It adopts the Short-Range Transit Plan, and through the annual budgetary process, establishes operational and funding levels for the system. The City Council also sets operational policies and parameters.

Management of the City's public transportation system, referred to as Porterville Transit, is an integrated function of the City of Porterville. The Transportation department is responsible for the overall management of the service. The City is also responsible for the maintenance of the transit fleet, through its Field Services Division.

The City outsources, to a private contractor, to perform daily operations of Porterville Transit. The Director of Transportation is responsible for the overall administration, planning, monitoring, and

marketing of the system. The Director of Transportation also acts as a liaison to the Tulare County Association of Governments (TCAG), the California Department of Transportation (Caltrans) and the Federal Transit Administration (FTA). The contracted local General Manager is responsible for the day-to-day operations management; the hiring, testing, training and supervision of all drivers and dispatch staff; fare collection; reporting; ridership data collection; and the operation of Porterville Transit vehicles in accordance with City policy and all State and Federal regulations. The County of Tulare contracts with the City of Porterville to provide transit service to unincorporated areas surrounding Porterville. The County reimburses the City for service provided to County residents using Local Transportation Funds (LTF).

Porterville Transit provides an array of transportation services in the form of fixed route bus services, ADA complementary paratransit, and innovative On-Demand services.

Preparation of Offer

1. Any person ("Proposer") submitting a Proposal ("Proposal") in response to this Request for Proposals ("RFP") shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to the awarded under this RFP (the "Contract"). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.

2. All forms provided must be completed and submitted with your Proposal.

3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer's errors or omissions.

4. All time periods stated as a number of days will be calendar days.

5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:

    1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

    2) Study and carefully correlate Proposer's knowledge and observations with the RFP document and other related data.

3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.

4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.

6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

Proposer must not take any exceptions to any terms, conditions or material requirements of this solicitation. Proposals submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Proposals must conform to all the requirements specified in the solicitation. The City encourages Proposers to send inquiries to the procurement officer rather than including exceptions in their Proposal.

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the

City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

The City of Porterville will not be responsible for any oral instructions made by any employees or officers of the City of Porterville regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

Business in California

The City will not enter contracts with Proposers (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of California, unless the proposer asserts a statutory exception prior to entering a contract with the City.

Licenses

If required by law for the operation of the business or work related to this Proposal, Proposer must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

Certification

By signing the Proposal, proposer certifies:

- The Proposer's submission of the Proposal did not involve collusion or other anti-competitive practices
- The Proposer shall not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Proposer has not given, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Minimum Qualifications

- Proposer must have been in operation a minimum of five years.

Certificates of Insurance

Upon notification of a recommended award, the Proposer will have 14 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive and responsible Proposer whose proposal, in the sole and absolute discretion of City, for providing the goods and/or services

contained in this solicitation, who have demonstrated the ability to perform in an acceptable manner, and is most advantageous to the City.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is a Proposal to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Proposals do not become contracts until they are executed by the Mayor. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual proposers or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under California Statutes, until the resulting contract(s) are awarded to all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Proposers may not discuss the solicitation with any City employees or evaluation panel members.

Proposers may discuss their proposal or the solicitation with the Mayor or one or more members of the Porterville City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Proposals, the City Manager will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

"To discuss" means any contact by the Proposer, regardless of whether the City responds to the contact. Proposers that violate this policy will be disqualified until the resulting contract(s) are awarded, or all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

Protest Process

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with City's FTA Procurement and Contract Administration Manual (which is available at www.ci.porterville.ca.us), the terms of which are hereby included herein by this reference. The City reserves the right to modify the terms of the protest procedure if it determines that such modification is in its best interest. Should there be any dispute between the City's FTA Procurement and Contract Administration Manual and the provisions of this Section, the City in its discretion shall determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of the City, and it is for the City to determine in its discretion which Proposal the City desires to accept. The City has provided for a Protest procedure not to grant any rights to any particular Proposer but, rather, to provide the City the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer has any legal right in connection with any Protest Proceeding and the City may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City's FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City's FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City's FTA Procurement and Contract Administration Manual is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

By virtue of submitting its Proposal, any Protesting Party expressly agrees that its remedies are exclusively limited to the City's Protest procedure set forth in the City's FTA Procurement and Contract Administration Manual (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by the City. The foregoing is a material consideration in the consideration by the City of any Proposal.

Public Record

All Proposals submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to California State law. If a

Proposer believes that a specific section of its Proposal response is confidential, the Proposer will isolate the pages marked confidential in a specific and clearly labeled section of its Proposal response. A Proposer may request specific information contained within its Proposal is treated by the Procurement Officer as confidential provided the Proposer clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Proposers as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Proposer in writing of any request to view any portion of its Proposal marked "confidential." The Proposer will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Proposer does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

Right to Disqualify

The City reserves the right to disqualify any Proposer who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the Proposer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Proposer waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City of Porterville or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Proposer.

Late Proposals

Late Proposals must be rejected, except for good cause. If a late Proposal is submitted, the Department will document the date and time of the submittal of the late Proposal, keep the Proposal and notify the Proposer that its Proposal was disqualified for being late.

Pre-Bid Meeting

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on the date indicated in Section 1 ("RFP Schedule").

Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award contracts.

Determining Responsiveness and Responsibility

Proposals will be reviewed for documentation of any required minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Proposals will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Proposals will render a Proposal nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Proposal that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Proposer remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so in writing, the City may determine the Proposal to be nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Proposer be a responsible contractor. Responsibility includes the Proposer's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Proposer's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Proposal.

Clarifications

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

Detailed Evaluation of Proposals and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposer's rankings and which Proposals are within the Competitive Range, when appropriate.

Proposals Not Within The Competitive Range

The City may notify Proposers of Proposals that the City determined are not in the Competitive Range.

Discussions With Proposers In The Competitive Range

The City will notify each Proposer whose Proposal is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Proposal. The Proposers in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Porterville. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If a Proposal in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Proposer about other Proposals received in response to this solicitation. During discussions with Proposers in the Competitive Range, the City will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace

or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Proposal and make one BAFO.

If a Proposer's BAFO modifies its initial offer, the BAFO should include a "Change Log" identifying all modifications made to the Proposal. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Proposals. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Proposal modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Proposal that is the most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to a Proposer whose Proposal is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

This Contract will be governed by the law of the State of California, and suits pertaining to this Contract will be brought only in Federal or State courts in Tulare County, State of California.

Contract Order Of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- Federal Terms and Conditions
- Special Terms and Conditions
- Standard Terms and Conditions
- Amendments
- Scope of Work
- Specifications
- Attachments
- Exhibits
- Instructions to Contractors
- Other documents referenced or included in the RFP

Organization – Employment Disclaimer

The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

Non-Waiver of Liability

The City of Porterville as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable California law.

Parol Evidence

This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

Contract Administration and Operation

Records

All books, accounts, reports, files, and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Porterville office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

Discrimination Prohibited

Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Contractor will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation: Contractors may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

Monitoring: The City shall monitor the employment policies and practices of Contractors subject to this article as deemed necessary. The City is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

Health, Environmental and Safety Requirements

The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.

- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

Compliance With Laws

Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

Continuation During Disputes

Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by a California Court of competent jurisdiction.

Emergency Purchases

The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

Costs and Payments

General

Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Proposal.

Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

Late Submission of Claim By Contractor

The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

No Advance Payment

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

Fund Appropriation Contingency

The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

Contract Changes

Contract Amendments

Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

Assignment – Delegation

No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

Non-Exclusive Contract

Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

Risk of Loss and Liability

Title and Risk of Loss

The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

Acceptance

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

Force Majeure

Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Loss of Materials

The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

Contract Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

Damage to City Property

Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

City's Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Transaction Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to

determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Transaction Privilege Taxes or California Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

- Ability to take regular and necessary breaks as needed and additional breaks for hydration.

- Access to shaded areas and/or air conditioning.

- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.

- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.

- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement ("Contract's start date"), and end when the City Council accepts the project as completed ("Contract's end date").

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor's sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term "process," "processing," or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

(1) process PII only within the United States and only in accordance with the Contract and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;

(2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

(3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;

(4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;

(5) take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

(1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;

(2) act on newly acquired information whether or not such information should have been previously discovered;

(3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and

(4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor ("Indemnitor") must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever ("Losses") caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors ("Indemnitor's Agents") arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses arising out of or recovered under any state's Workers' Compensation Law or arising out of the failure of Indemnitor or Indemnitor's Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor's duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor's duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnitee's own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Indemnitor or Indemnitor's Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor's Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a "following form" basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - $4,000,000

Products – Completed Operations Aggregate - $1,000,000

Personal and Advertising Injury - $1,000,000

Fire Damage - $1,000,000

Each Occurrence - $1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non- contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) $1,000,000

UM/UIM Per Person Limit $1,000,000

UM/UIM Per Accident Limit $1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.

- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident $100,000

Disease – Each Employee $100,000

Disease – Policy Limit $500,000

- Policy must contain a waiver of subrogation against the City of Porterville.

- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor's Property and Equipment

Contractor must maintain all risk property insurance for Contractor's personal property. The CITY will have no responsibility for any damage to Contractor's personal property and Contractor's property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.

2) Contractor's insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.

3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives**.

General Overview of Services

Project Summary

The City of Porterville is soliciting proposals to supply Renewable Natural Gas (RNG) for use as a vehicle fuel within the City's service territory to meet 100% of end-use customer's consumption.

Customer	Address	Annual Consumption (Therms)
City of Porterville	555 N. Prospect Porterville, CA 93257	331,916 (2023)

Pursuant to federal and state regulations, the supplier shall manage Renewable Identification Number (RIN), and Low Carbon Fuel Standards (LCFS) credits associated with the supply and consumption of RNG as a vehicle fuel. Supplier shall ensure natural gas delivered to the City meets the definition of RNG as defined by proposed regulation California Senate Bill 1383 (SB 1383) and exempt for purposes related to the California Cap and Trade Program (AB 32). In addition, the supplier shall draft amendments allowing ER to collect RIN and LCFS credits on behalf of customers that use natural gas as a vehicle fuel.

Background

In order to reduce greenhouse gas emissions from the transportation sector, federal and state laws have been enacted to decrease the nation's dependence on fossil fuels and promote less carbon-intensive renewable fuels. A federal Renewal Fuel Standard (RFS) was created under the Energy Policy Act of 2005, and greatly expanded under the Energy Independence and Security Act (EISA) of 2007. Under the RFS program, fuel producers and importers are required to replace a percentage of their fossil-based transportation fuels with cleaner renewable fuels. In order to enforce the required volume of renewable fuel under the RFS, the Environmental Protection Agency assigns a Renewable Identification Number (RIN) to each unit of renewable fuel.

Along with the federal RFS mandate, California has also enacted similar legislation requiring the oil and gas industry to reduce the carbon intensity of transportation fuels. Under the Global Warming Solutions Act of 2006 (AB 32), California created a Low Carbon Fuel Standard (LCFS) that incentives the use of RNG as a vehicle fuel.

As a natural gas distributor, The City of Porterville continually explores new approaches to reduce greenhouse gas emissions that contribute to climate change. Technological advancements have allowed companies to produce alternatives to traditional natural gas that emit fewer greenhouse

gas emissions and increase the nation's energy security. One such advancement is the ability to produce RNG on a large scale.

The City of Porterville is seeking an RNG supplier capable of supplying 100% of the demand from customers that use natural gas as a vehicle fuel. The supplier must manage the federal RIN and state LCFS credit programs, provide documentation to meet the definition of RNG included in the proposed SB 1383, and ensure RNG is exempt for purposes related to the California Cap and Trade Program (AB 32).

Goals

The City of Porterville supplies one location with natural gas to operate CNG-powered fleet vehicles. By entering into a supply contract, along with any necessary addendum's, the City is able to purchase an amount of RNG equal to the amount of natural gas used by CNG-powered fleet vehicles operating within the City. This RNG must meet the definition of renewable gas as defined by the proposed regulation SB 1383 and be exempt for purposes related to California Cap and Trade (AB 32) reporting. The proposed supply agreement will not only allow for the purchase of renewable fuel but also allow the City to receive a percentage of the revenue generated from the sale of RIN and LCFS credits on the open market.

Award Terms

This contract will be for a period of three years with the option to renew for three additional one-year periods. The total contract term will not exceed six years. In the event SB 1383 compliant fuel is unavailable, the City will consider another RNG provider on a shorter contract term and advertise another Request for Proposal (RFP) once the SB 1383 compliant fuel becomes more readily available.

Description of Services

Supplier of renewable natural gas shall, but not limited to, perform the below functions:

- Seller shall deliver RNG to meet 100% of demand for customers that use natural gas as a vehicle fuel.

- As a wholesale end-use customer of the Southern California Gas Company (SoCalGas), the supplier is responsible for delivering natural gas into the SoCalGas pipeline system for final consumption within the City's service territory.

- The supplier must provide the City with a monthly price paid for RNG (per MMBtu) based on an associated bid week average index price as published in Natural Gas Intelligence, including any proposed discount or premium on that price.

- Pursuant to federal and state regulations, the supplier will manage RIN and LCFS credits associated with the supply and consumption of RNG as a vehicle fuel.

- The seller will provide the City, on a percentage basis, revenue obtained through RIN and LCFS credits.

- Manage and balance RNG supply to the SoCalGas system without charge to the City. Seller shall be responsible for charges or penalties incurred by the City related to the delivery of RNG.

- Provide documentation for the purposes of meeting the definition of renewable gas as defined by the proposed regulation California Senate Bill 1383 and exempt for purposes related to California Cap and Trade (AB 32) reporting.

- Draft any contract amendments required for the city to collect RIN and LCFS credits on behalf of customers that use RNG as a vehicle fuel.

Contract Management

The City shall provide consumption data on a monthly basis or at any time data is requested by the seller. Any additional information requested by the seller will be provided by the City in a timely manner.

Seller shall provide the City with monthly statements, including the cost of purchasing RNG and the associated value of RIN and LCFS credits for each customer that consumes natural gas as a vehicle fuel.

As needed by the City, the supplier will provide documentation for the exemption of RNG from reporting under the California Cap and Trade Program and meet the definition of RNG under proposed SB 1383.

Through the City's agent, Shell Energy North America, supplier will nominate daily volumes into the SoCalGas system.

Supplier shall draft any amendment required for the City to collect revenue from RIN and LCFS credits on behalf of customers that consume natural gas as a vehicle fuel.

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer's ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
    a. Cover letter shall introduce the Proposer and establish interest in providing Renewable Natural Gas that meet the requirements of the City.
        i. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement

a. Indicate how many years of experience Proposer has in providing Renewable Natural Gas.
b. Understanding of federal and state regulations as it applies to RNG supply and applicable regulations.
c. Regulatory experience managing federal RIN and state LCFS credits.

3. Describe the approach and work plan used by the Proposer to provide the services described in the Scope of Services contained in this RFP.
    a. Potential suppliers shall provide the city with a monthly price for RNG (per MMBtu) based on published index prices, including any premium of discount.
    b. Proposer must state a framework for RIN and LCFS revenue sharing on a percentage basis.
4. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address that have purchased units similar to the City's request.
5. Complete and submit all required forms

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. **NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.**
   [These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

   The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. **NOTIFICATION TO FTA.**
   [These requirements apply to all contracts and subcontracts in excess of $25,000.]

   If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

   A. **Types of Legal Matters Requiring Notification**. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

   B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

   C. **Additional Notice to U.S. DOT Inspector General**. Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.
[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.

C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.

D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Phoenix and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (**a**) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (**b**) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

2. Contractor must follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. **Nondiscrimination – Title VI of the Civil Rights Act**.
1. Contractor must prohibit discrimination based on race, color, or national origin;

2. Contractor must comply with: (**a**) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (**b**) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21; and (**c**) Federal transit law, specifically 49 U.S.C. § 5332; and

3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. **Equal Employment Opportunity**.
1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (**a**) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (**b**) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (**c**) Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (**d**) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (**e**) FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients." Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.

3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."

6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).

7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under $25,000.]

A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.

C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

D. Contractor agrees that it will not enter into any "covered transaction" (as defined at 2 CFR 180.220 and 1200.220) with any "third party participant" (as defined in Section 1 of FTA's Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government's "System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at $250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

A. **Dispute Resolution**. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.

B. **Performance During Disputes**. Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

C. **Rights and Remedies**. The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under $100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381);

B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

A. As used in this clause: **(1) "international air transportation"** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) "United States**" means the 50 States, the District of Columbia, and outlying areas; and **(3) "U.S.-flag air carrier"** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not

available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

_____

(End of statement)

E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of $2,000.]

1. For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of $100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of $100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided

that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. <u>Contract Work Hours/Safety Standards for Awards Not Involving Construction</u>

[These requirements apply to all contracts (not involving construction) in excess of $100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.

2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the

contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.

4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at $250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.

C. A payment bond on the part of Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

A. **U.S. DOL Certification**. To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.

B. **Special Warranty**. If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

C. **Special Arrangements**. If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

D. **Flow Down**. Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.

B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.

C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (**A**) federal transit laws, specifically 49 U.S.C. § 5323(f); (**B**) FTA regulations, "School Bus Operations," 49 CFR part

605; (**C**) any other Federal School Bus regulations; or (**D**) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

A. **Financial Responsibility**. Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

B. **U.S. FMCSA Requirements**. Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Federal Motor Carrier Safety Regulations," 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver's license requirements of U.S. FMCSA regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. part 383, and "State Compliance with Commercial Driver's License," 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA's regulations, "Drug and Alcohol Use and Testing Requirements," 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

A. Seat Belt Use. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or AGENCY.

B. Distracted Driving. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned

vehicle when on official business in connection with the work performed under this Contract.

C. Subcontracts. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. **Definitions**. As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).

B. **Executive Order**. This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

C. **Subcontracts**. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]

A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or the City of Phoenix, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.

B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Phoenix Public Transit Department, 302 N. 1st Avenue, Phoenix, AZ 85003. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over $150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.

C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (**A**) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (**B**) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (**C**) telecommunications or video surveillance services provided by such entities or using such equipment; and (**D**) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. **National Environmental Policy Act.**
    1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (**a**) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (**b**) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (**c**) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (**d**) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (**e**) other federal environmental protection laws, regulations, and requirements applicable to Contractor.

    2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.

3. **Environmental Justice.** Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in

Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws**. Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order Nos. 11988 and 13690 relating to "Floodplain Management."

5. **Use of Certain Public Lands**. Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as "section 4(f)), and joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.

6. **Historic Preservation**. Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as "section 4(f)"), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.

7. **Indian Sacred Sites**. Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under $150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;" (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of $10,000. See 40 C.F.R part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will

be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes": (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for

any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations**. This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.

2. **DBE Participation**. For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to

compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation**. The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).

4. **DBE Certification**. Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.

5. **Civil Rights Assurances**. As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

   "The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible."

   Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the "contractor" awarded the contract.

6. **Subcontracts**. If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under $25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

□ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;

2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;

4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR –

□ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over $150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of $150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

□ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

□ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of $150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

□ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

□ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF_____

_____declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).

2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.

3. That his/her proposal is genuine and is not collusive or a sham proposal.

4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,

5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under $100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;

2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and

3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF "BEST VALUE" SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a "Best Value" basis, which the Federal Transit Administration's (FTA) Best Practices Manual defines as follows:

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE
GENERAL SERVICES AGREEMENT WITH
[insert full name of Contractor and Project Name and/or number]

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Contractor to complete Compressed Natural Gas (CNG) Fueling Station Maintenance Services (Project); and

B. On August 13, 2024, the City issued a Request for Proposals (RFP) for the Compressed Natural Gas (CNG) Fueling Station Maintenance Services (Project). On September 26, 2024, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.

C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work**. Contractor shall provide the goods and services required to complete the Project, described in Exhibit "A" attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City's prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.

2. **Time of Performance**. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started

and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit "C", attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed $_____. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville's appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City's satisfaction, within 30 days after the City's receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor's services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

4. Indemnification. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

1. Insurance. Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

1.1. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than

$4,000,000 general aggregate and $2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

1.2. Automobile Liability (with coverage at least as broad as ISO CA 00 01 07 097, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

1.3. Workers' Compensation coverage shall be maintained as required by the State of California.

1.4. Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than $1,000,000 per claim.

1.5. Endorsements. Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

1.5.1. The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

1.5.2. For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

1.6. Notice of Cancellation. Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

1.7. Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

1.8. Insurance Certificate. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

1.9. Substitute Certificates. Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

1.10. Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems

necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination**. The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

3. **Dispute Resolution**. If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

   3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.

   3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,

   3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

   3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.

   3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

   3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

4. **Labor Code Compliance**. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a

"public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates**. These prevailing wage rates are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

6. **Registration with DIR**. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5

7. **Monitoring**. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

8. **Ownership of Work**. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

9. **Independent Contractor Status**. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

10. **Conflicts of Interest**. Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.

11. **Rebates, Kickbacks, or Other Unlawful Consideration**. Contractor warrants this this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. **Notices**. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party

to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:	To Contractor
City of Porterville	_____
Transportation Department	_____
291 N. Main Street	_____
Porterville, CA 93257	_____

13. Miscellaneous

13.1. **Standard of Care**. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. **Amendments**. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. **Waivers**. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. **Assignment and Delegation**. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. **Jurisdiction and Venue**. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. **Compliance with Law**. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin, handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

13.7. Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.

13.8. Business License. Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.

13.9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

13.10. Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

13.11. Severability. If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

13.12. Controlling Provisions. In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.

13.13. Entire Agreement. This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13.14. Counterparts. City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

13.15. Expenses for Enforcement. Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert

witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

City of Porterville 291 N. Main Street Porterville, CA 93257	**Contractor** _____ _____
By: Martha A. Flores_____	By: _____
Title: Mayor_____	Title: _____
Date: _____	Date: _____
	Federal Employer Tax ID No. _____
Signature: _____	Signature: _____

Attest:

_____
Patrice Hildreth, City Clerk

Approved as to form:

_____
Julia M. Lew, City Attorney

Exhibits:

A. RFP No.XXX Charging Station Replacement
B. Contractor Proposal
C. Compensation

SUBJECT: Authorization to Distribute a Request for Proposals for Compressed Natural Gas Fueling Station Maintenance Service

SOURCE: Public Works

COMMENT: A Request for Proposals (RFP) has been prepared for Compressed Natural Gas (CNG) Fueling Station Maintenance Services. The successful Proposer must be able to provide a full range of services for maintenance and repair of the City's Compressed Natural Gas (CNG) Fueling Station to ensure that City operations continue uninterrupted to the extent possible. The successful Proposer is expected to be responsible for:
1) Proactive Maintenance
2) Scheduled Maintenance on-site and remote
3) Emergency Maintenance Repairs

The resulting contract will be for a Firm-Fixed Price (FFP) contract for a five-year (5) period. Subject to the Contractor's satisfactory performance, and at its sole discretion, the City may exercise the option to renew the contract up to five (5) additional one-year terms.

The FTA considers this project as preventive maintenance, and the FTA provides federal financial assistance for up to eighty percent (80%) of the cost. A local match of twenty percent (20%) is required, which will be covered by Local Transportation Funds (LTF). These funds have been appropriated in the FY 2024-2025 Budget. The negotiated contract will be brought back to City Council for final approval.

RECOMMENDATION: That the City Council:
1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

ATTACHMENTS: 1. Draft Request for Proposals

Appropriated/Funded:

Review By:

Department Director:

Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
COMPRESSED NATURAL GAS (CNG)
FUELING STATION MAINTENANCE SERVICES



August 6, 2024

The City of Porterville does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the City's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities.

The project is funded in part by the Federal Transit Administration Catalog of Federal Domestic Assistance (CFDA) 20.500 and 20.507. The City of Porterville reserves the right to reject any or all proposals.

CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
COMPRESSED NATURAL GAS (CNG) FUELING STATION MAINTENANCE SERVICES

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide Compressed Natural Gas (CNG) Fueling Station Maintenance Services.

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on September 21, 2024, at 10:00 am.

This contract is federally funded and as such, the Federal Requirements associated with the performance of services under this contract have been included with this RFP. The awarded Proposer will be responsible for adherence to all local, state, and federal requirements listed herein. These requirements are hereby incorporated into the subsequent contract arising from this RFP.

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the process will be handled electronically through the Public Purchase website.

The City has not established a DBE goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract. The City of Porterville overall DBE goal is 1% of total contracts (including subcontracts) awarded.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded the full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Porterville will not be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military or veteran status in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates:

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Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 13, 2024
Required Site Tour	Not Required
Deadline to submit questions	August 29, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	October 9, 2024
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. No proposal shall be received from an individual or firm that has not accessed the proposal documents from the Public Purchase website. All addenda and correspondence during the process will be handled electronically through the Public Purchase website. Questions regarding this request for proposals must be submitted through the Public Purchase website.

Background

The City of Porterville ("CITY") is located in Tulare County, which is part of the Central San Joaquin Valley of California. The San Joaquin Valley is a rich agricultural area and Tulare County is recognized as the largest agricultural-producing county in the world.

Porterville has a land area of approximately 14.3 square miles (9,161 acres), situated at the base of the foothills of the Sierra Nevada Mountain Range. It is approximately 30 miles southeast of Visalia (the County seat); 60 miles northeast of Bakersfield, 165 miles northeast of Los Angeles, and 254 miles southeast of San Francisco. State Routes 65 and 190 bisect the community.

The Porterville City Council is the policy-making body for the City of Porterville's Transportation Department. It adopts the Short-Range Transit Plan, and through the annual budgetary process, establishes operational and funding levels for the system. The City Council also sets operational policies and parameters.

Management of the City's public transportation system, referred to as Porterville Transit, is an integrated function of the City of Porterville. The Transportation department is responsible for the overall management of the service. The City is also responsible for the maintenance of the transit fleet, through its Field Services Division.

The City outsources, to a private contractor, to perform daily operations of Porterville Transit. The Director of Transportation is responsible for the overall administration, planning, monitoring, and

marketing of the system. The Director of Transportation also acts as a liaison to the Tulare County Association of Governments (TCAG), the California Department of Transportation (Caltrans) and the Federal Transit Administration (FTA). The contracted local General Manager is responsible for the day-to-day operations management; the hiring, testing, training and supervision of all drivers and dispatch staff; fare collection; reporting; ridership data collection; and the operation of Porterville Transit vehicles in accordance with City policy and all State and Federal regulations. The County of Tulare contracts with the City of Porterville to provide transit service to unincorporated areas surrounding Porterville. The County reimburses the City for service provided to County residents using Local Transportation Funds (LTF).

Porterville Transit provides an array of transportation services in the form of fixed route bus services, ADA complementary paratransit, and innovative On-Demand services.

Preparation of Offer

1. Any person ("Proposer") submitting a Proposal ("Proposal") in response to this Request for Proposals ("RFP") shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to the awarded under this RFP (the "Contract"). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.

2. All forms provided must be completed and submitted with your Proposal.

3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer's errors or omissions.

4. All time periods stated as a number of days will be calendar days.

5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:

    1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

    2) Study and carefully correlate Proposer's knowledge and observations with the RFP document and other related data.

3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.

4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.

6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

Proposer must not take any exceptions to any terms, conditions or material requirements of this solicitation. Proposals submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Proposals must conform to all the requirements specified in the solicitation. The City encourages Proposers to send inquiries to the procurement officer rather than including exceptions in their Proposal.

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the

City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

The City of Porterville will not be responsible for any oral instructions made by any employees or officers of the City of Porterville regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

Business in California

The City will not enter contracts with Proposers (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of California, unless the proposer asserts a statutory exception prior to entering a contract with the City.

Licenses

If required by law for the operation of the business or work related to this Proposal, Proposer must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

Certification

By signing the Proposal, proposer certifies:

- The Proposer's submission of the Proposal did not involve collusion or other anti-competitive practices
- The Proposer shall not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Proposer has not given, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Minimum Qualifications

- Proposer must have been in operation a minimum of five years.

Certificates of Insurance

Upon notification of a recommended award, the Proposer will have 14 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive and responsible Proposer whose proposal, in the sole and absolute discretion of City, for providing the goods and/or services contained in this solicitation, who have demonstrated the ability to perform in an acceptable manner, and is most advantageous to the City.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is a Proposal to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Proposals do not become contracts until they are executed by the Mayor. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual proposers or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under California Statutes, until the resulting contract(s) are awarded to all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Proposers may not discuss the solicitation with any City employees or evaluation panel members.

Proposers may discuss their proposal or the solicitation with the Mayor or one or more members of the Porterville City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Proposals, the City Manager will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT

VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

"To discuss" means any contact by the Proposer, regardless of whether the City responds to the contact. Proposers that violate this policy will be disqualified until the resulting contract(s) are awarded, or all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

Protest Process

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with City's FTA Procurement and Contract Administration Manual (which is available at www.ci.porterville.ca.us), the terms of which are hereby included herein by this reference. The City reserves the right to modify the terms of the protest procedure if it determines that such modification is in its best interest. Should there be any dispute between the City's FTA Procurement and Contract Administration Manual and the provisions of this Section, the City in its discretion shall determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of the City, and it is for the City to determine in its discretion which Proposal the City desires to accept. The City has provided for a Protest procedure not to grant any rights to any particular Proposer but, rather, to provide the City the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer has any legal right in connection with any Protest Proceeding and the City may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City's FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City's FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City's FTA Procurement and Contract Administration Manual is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

By virtue of submitting its Proposal, any Protesting Party expressly agrees that its remedies are exclusively limited to the City's Protest procedure set forth in the City's FTA Procurement and Contract Administration Manual (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by the City. The foregoing is a material consideration in the consideration by the City of any Proposal.

Public Record

All Proposals submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to California State law. If a Proposer believes that a specific section of its Proposal response is confidential, the Proposer will isolate the pages marked confidential in a specific and clearly labeled section of its Proposal response. A Proposer may request specific information contained within its Proposal is treated by the Procurement Officer as confidential provided the Proposer clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Proposers as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Proposer in writing of any request to view any portion of its Proposal marked "confidential." The Proposer will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Proposer does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

Right to Disqualify

The City reserves the right to disqualify any Proposer who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the Proposer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Proposer waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City of Porterville or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Proposer.

Late Proposals

Late Proposals must be rejected, except for good cause. If a late Proposal is submitted, the Department will document the date and time of the submittal of the late Proposal, keep the Proposal and notify the Proposer that its Proposal was disqualified for being late.

Pre-Bid Meeting

A mandatory site visit is REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us. The site visit will be concluded on the date indicated in Section 1 ("RFP Schedule").

Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award contracts.

Determining Responsiveness and Responsibility

Proposals will be reviewed for documentation of any required minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Proposals will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Proposals will render a Proposal nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Proposal that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Proposer remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so in writing, the City may determine the Proposal to be nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Proposer be a responsible contractor. Responsibility includes the Proposer's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Proposer's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Proposal.

Clarifications

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

Detailed Evaluation of Proposals and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposer's rankings and which Proposals are within the Competitive Range, when appropriate.

Proposals Not Within The Competitive Range

The City may notify Proposers of Proposals that the City determined are not in the Competitive Range.

Discussions With Proposers In The Competitive Range

The City will notify each Proposer whose Proposal is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Proposal. The Proposers in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Porterville. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If a Proposal in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Proposer about other Proposals received in response to this solicitation. During discussions with Proposers in the Competitive Range, the City will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace

or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Proposal and make one BAFO.

If a Proposer's BAFO modifies its initial offer, the BAFO should include a "Change Log" identifying all modifications made to the Proposal. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Proposals. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Proposal modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Proposal that is the most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to a Proposer whose Proposal is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

This Contract will be governed by the law of the State of California, and suits pertaining to this Contract will be brought only in Federal or State courts in Tulare County, State of California.

Contract Order Of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- Federal Terms and Conditions
- Special Terms and Conditions
- Standard Terms and Conditions
- Amendments
- Scope of Work
- Specifications
- Attachments
- Exhibits
- Instructions to Contractors
- Other documents referenced or included in the RFP

Organization – Employment Disclaimer

The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

Non-Waiver of Liability

The City of Porterville as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable California law.

Parol Evidence

This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

Contract Administration and Operation

Records

All books, accounts, reports, files, and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Porterville office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

Discrimination Prohibited

Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Contractor will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation: Contractors may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

Monitoring: The City shall monitor the employment policies and practices of Contractors subject to this article as deemed necessary. The City is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

Health, Environmental and Safety Requirements

The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.

- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

Compliance With Laws

Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

Continuation During Disputes

Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by a California Court of competent jurisdiction.

Emergency Purchases

The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

Costs and Payments

General

Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Proposal.

Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

Late Submission of Claim By Contractor

The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

No Advance Payment

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

Fund Appropriation Contingency

The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

Contract Changes

Contract Amendments

Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

Assignment – Delegation

No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

Non-Exclusive Contract

Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

Risk of Loss and Liability

Title and Risk of Loss

The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

Acceptance

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

Force Majeure

Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Loss of Materials

The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

Contract Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

Damage to City Property

Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

City’s Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Transaction Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City

provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Transaction Privilege Taxes or California Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of

this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

- Ability to take regular and necessary breaks as needed and additional breaks for hydration.

- Access to shaded areas and/or air conditioning.

- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.

- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.

- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement ("Contract's start date"), and end when the City Council accepts the project as completed ("Contract's end date").

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor's sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term "process," "processing," or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

(1) process PII only within the United States and only in accordance with the Contract and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;

(2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

(3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;

(4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;

(5) take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

(1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;

(2) act on newly acquired information whether or not such information should have been previously discovered;

(3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and

(4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor ("Indemnitor") must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever ("Losses") caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors ("Indemnitor's Agents") arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses arising out of or recovered under any state's Workers' Compensation Law or arising out of the failure of Indemnitor or Indemnitor's Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor's duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor's duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnitee's own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Indemnitor or Indemnitor's Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor's Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a "following form" basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - $4,000,000

Products – Completed Operations Aggregate - $1,000,000

Personal and Advertising Injury - $1,000,000

Fire Damage - $1,000,000

Each Occurrence - $1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non- contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) $1,000,000

UM/UIM Per Person Limit $1,000,000

UM/UIM Per Accident Limit $1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.

- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident $100,000

Disease – Each Employee $100,000

Disease – Policy Limit $500,000

- Policy must contain a waiver of subrogation against the City of Porterville.

- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor's Property and Equipment

Contractor must maintain all risk property insurance for Contractor's personal property. The CITY will have no responsibility for any damage to Contractor's personal property and Contractor's property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.

2) Contractor's insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.

3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives**.

General Overview of Services

The scope of services in this section describes the required services to be provided by the Contractor during the term of the Contract. The Contractor shall supply all labor and any equipment or tools necessary to perform and deliver the services required under this contract.

The City is seeking to award a contract for Managed Compressed Natural Gas (CNG) Fueling Station Maintenance Services to a qualified firm.

The Contractor shall provide proactive, scheduled, and emergency maintenance services for the entire CNG fueling station and the methane detection system above the repair bays in the Maintenance facility. This includes providing all labor, parts, materials, replacement equipment, inspections and testing. All planned and unplanned CNG station and Maintenance facility repair work shall be coordinated with the Shop Superintendent or designee.

Contractor shall perform maintenance and inspection a minimum of once a week. Contractor service must be of such high quantity and quality so that all CNG vehicles will be fueled for operational rollout on any given morning during the contract.

Contractor shall have the capability to remotely monitor the compressor system variables, such as flow, temperature and pressure with a laptop computer and remote alarm 24/7, 365 days a year.

An electronic and hard copy of the maintenance records shall be kept at the Facility site for the City's inspection and must be updated monthly. The City shall permit Contractor trained and certified O/M personnel and its approved vendor subcontractors to enter the compressor compound area, fueling island, and maintenance facility.

At the end of the maintenance agreement, Contractor shall transfer the complete rights or license of all software to the City. All additional electronic files and programs, equipment manuals, and the entire O/M record database shall also be transferred to the City.

List of CNG Station Equipment

Equipment Description	QTY	Manufacturer
CNG Compressor	2	ANGI
Gas Dyer	1	Pneumatic Products
CNG Storage Vessels	3	
CNG Fast Fill Dispensers	2	ANGI
CNG Slow Fill Dispensers	52	
Priority/Buffer Control Valve Panel	1	ANGI
CNG Station Control System	1	ANGI
Switchgear Compressor Motor Starters	2	
Master Control Panel	2	ANGI

List of Maintenance Facility Equipment

Equipment Description	QTY	Manufacturer
Methane Detection Control Panel	1	
Exhaust Fans	4	
Intake Louvers	4	
Methane Sensors	4	

Maintenance

The following are the types of maintenance the Contractor is required to perform. All maintenance and/or repairs will be coordinated with the Shop Superintendent or designee.

Proactive Maintenance - monitoring of CNG station systems including critical flow, temperature, pressure, vibrations, leaks, and false alarms. Electronic monitoring is an acceptable alternative to an on-site inspection, subject to approval by the City.

Scheduled Maintenance - specific maintenance performed in conformance with manufacturer's recommendations and industry best practices. Contractor shall develop a scheduled maintenance process per each manufacturer's or vendor's requirements and perform all maintenance on a timely basis.

Emergency Maintenance/Repairs - unplanned service resulting from a system shutdown or failure causing the CNG station to not be fully operational. Contractor shall provide the City with a report of the emergency covering the resources required to fix the problem, the length of time the CNG station or compressor was shutdown, the cause, steps taken to fix the problem, and steps taken to prevent it from happening again. Contractor shall locally store and maintain adequate supply of critical spare parts, based on manufacturer's recommendations, for use in an emergency. A copy of spare parts list shall be provided to the City for review and approval.

Maintenance Technicians

All O/M activities performed by the Contractor will be done in accordance with manufacturer's and vendor's manuals and instructions, and in accordance with best industry standards. Any activity involved with the venting of gas or welding in the general vicinity of the CNG station shall be approved by the Shop Superintendent or designee. Contractor shall review all work proactive, scheduled, and emergency maintenance being performed with the Shop Superintendent or designee prior to commencement.

All materials associated with this service contract for maintenance of the CNG station and Maintenance facility shall be provided by the Contractor unless specified otherwise, and shall be new, unused and of first or Original Equipment Manufacturer (OEM) quality. Workmanship shall be at least equivalent to acceptable standards practiced within the natural gas industry for similar CNG stations.

The Contractor is required to provide qualified service personnel. All service personnel shall be OSHA certified, factory trained and certified by the equipment manufacturers to work on CNG equipment. Contractor shall provide names and qualifications of personnel and all subcontractors assigned to the City. Contractor shall include an organizational chart that clearly delineates all staff assigned to the City.

The Contractor is responsible for furnishing its personnel with vehicles, safety equipment, computers, hand tools, cell phones, general test equipment, gas detectors and other equipment required to service a CNG station. Contractor service personnel shall wear all protection equipment necessary for the job such as but not limited to photo I.D. badge, hard hat, goggles, hearing protection, and a yellow/orange reflective safety vest, jacket or shirt while doing maintenance in the CNG station.

The Contractor's personnel will be required to check-in and check-out with the Shop Superintendent or designee during each site visit.

The Contractor shall provide locally based, company employed service technician(s) for all maintenance services that have demonstrated experience and competency in maintaining other similar CNG station equipment. The Contractor's service technicians are to be available within 3 hours of a call-out, 24 hours per day, 7 days per week for the duration of the contract.

The Contractor shall incur all costs associated with meeting all applicable regulations, codes and standards. The Contractor shall provide all standard and specialty tools to efficiently maintain and service the equipment.

The Contractor is responsible for disposal of all unclassified liquid and solid waste from the CNG station O/M work.

Compressor Compound and Fuel Dispensing Area

The Contractor shall keep the compressor(s) and related controls free from excessive wear, in good working order, and free of detectable leaks. The fueling panels, hoses, nozzles, and related fueling components shall be free from excessive wear, in good working order, and free of detectable leaks. All leaks shall be immediately repaired.

System Monitoring and Alarms

The CNG station and maintenance facility monitoring and alarm system must be operational always. Bypassing of alarms and shutdown systems will not be allowed without specific approval by the City. The monitoring and alarm system shall be tested and calibrated monthly. The ESD system shall be tested monthly and reset. All testing and calibration of the monitoring and alarm system shall be coordinated with the Shop Superintendent or designee. Contractor's monitoring system shall be capable of proactively troubleshooting and diagnosing CNG station failures remotely and dispatching technician support as needed.

Permits and Local Licenses

The Contractor shall obtain and pay for all permits and licenses necessitated by his operations. Prior to starting any work, the Contractor will be required to obtain a City of Porterville Business license.

Work Performance

All work shall be completed in a competent manner per industry best practices. All personnel engaged in maintenance of the CNG station and maintenance facility, including subcontractors, will be considered as employees of the Contractor. The Contractor will be responsible for their work. The City will deal directly with and make all payments to the prime Contractor. The subcontracting of any or all the work to be done will in no way relieve the Contractor of any responsibilities as outline in the contract agreement.

Exceptions

The only costs associated with maintenance and operation of the CNG station that are not the responsibility of the Contractor are those related to damage, neglect, or misuse not caused or controlled by the Contractor, such as a dispenser drive away or vandalism.

Scheduling of Preventive Maintenance Service

Contractor shall perform preventive and scheduled maintenance work Monday through Friday between the hours of 6 a.m. and 5 p.m. The Contractor may perform unscheduled repairs upon approval of the City.

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer's ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
    a. Cover letter shall introduce the Proposer and establish interest in providing a turnkey CNG Fueling Station Maintenance Services that meet the requirements of the City.
        i. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement
    a. Indicate how many years of experience Proposer has in providing CNG Fueling Station Maintenance Services.
    b. Indicate how many years of experience Proposer has in the CNG Fueling Station Maintenance Services.
3. Describe the approach and work plan used by the Proposer to provide the services described in the Scope of Services contained in this RFP.
    a. # of staff dedicated to the City
    b. Proposed tasks and deliverables for the required services
    c. Description of any performance measures for tracking all work, maintenance reports, service tickets, service milestones, etc.
4. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address that have purchased units similar to the City's request.
5. Provide a contract price proposal
6. Provide an estimated project schedule
7. Complete and submit all required forms

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. **NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.**
   [These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

   The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. **NOTIFICATION TO FTA.**
   [These requirements apply to all contracts and subcontracts in excess of $25,000.]

   If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

   A. **Types of Legal Matters Requiring Notification**. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

   B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

   C. **Additional Notice to U.S. DOT Inspector General**. Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.
[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.

C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.

D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Phoenix and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (**a**) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (**b**) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

2. Contractor must follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. **Nondiscrimination – Title VI of the Civil Rights Act**.
1. Contractor must prohibit discrimination based on race, color, or national origin;

2. Contractor must comply with: (**a**) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (**b**) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21; and (**c**) Federal transit law, specifically 49 U.S.C. § 5332; and

3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. **Equal Employment Opportunity**.
1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (**a**) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (**b**) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (**c**) Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (**d**) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (**e**) FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients." Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.

3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."

6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).

7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under $25,000.]

A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.

C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

D. Contractor agrees that it will not enter into any "covered transaction" (as defined at 2 CFR 180.220 and 1200.220) with any "third party participant" (as defined in Section 1 of FTA's Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government's "System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at $250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

A. **Dispute Resolution**. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.

B. **Performance During Disputes**. Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

C. **Rights and Remedies**. The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under $100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381);

B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

A. As used in this clause: **(1) "international air transportation"** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) "United States**" means the 50 States, the District of Columbia, and outlying areas; and **(3) "U.S.-flag air carrier"** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not

available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

_____

(End of statement)

E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of $2,000.]

1. For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of $100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of $100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided

that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. <u>Contract Work Hours/Safety Standards for Awards Not Involving Construction</u>

[These requirements apply to all contracts (not involving construction) in excess of $100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.

2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the

contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.

4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at $250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.

C. A payment bond on the part of Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

A. **U.S. DOL Certification**. To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.

B. **Special Warranty**. If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

C. **Special Arrangements**. If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

D. **Flow Down**. Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.

B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.

C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (**A**) federal transit laws, specifically 49 U.S.C. § 5323(f); (**B**) FTA regulations, "School Bus Operations," 49 CFR part

605; (**C**) any other Federal School Bus regulations; or (**D**) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

A. **Financial Responsibility**. Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

B. **U.S. FMCSA Requirements**. Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Federal Motor Carrier Safety Regulations," 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver's license requirements of U.S. FMCSA regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. part 383, and "State Compliance with Commercial Driver's License," 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA's regulations, "Drug and Alcohol Use and Testing Requirements," 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

A. Seat Belt Use. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or AGENCY.

B. Distracted Driving. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned

vehicle when on official business in connection with the work performed under this Contract.

C. Subcontracts. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases ($10,000 or less, except for construction contracts over $2,000).]

A. **Definitions**. As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) “text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: “text messaging” does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).

B. **Executive Order**. This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

C. **Subcontracts**. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, “Definitions.”]

A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or the City of Phoenix, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.

B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Phoenix Public Transit Department, 302 N. 1st Avenue, Phoenix, AZ 85003. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over $150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.

C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (**A**) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (**B**) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (**C**) telecommunications or video surveillance services provided by such entities or using such equipment; and (**D**) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. **National Environmental Policy Act.**
    1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (**a**) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (**b**) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (**c**) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (**d**) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (**e**) other federal environmental protection laws, regulations, and requirements applicable to Contractor.

    2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.

3. **Environmental Justice.** Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in

Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws**. Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order Nos. 11988 and 13690 relating to "Floodplain Management."

5. **Use of Certain Public Lands**. Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as "section 4(f)), and joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.

6. **Historic Preservation**. Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as "section 4(f)"), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.

7. **Indian Sacred Sites**. Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under $150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;" (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of $10,000. See 40 C.F.R part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will

be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes": (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for

any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations**. This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.

2. **DBE Participation**. For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to

compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation**. The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).

4. **DBE Certification**. Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.

5. **Civil Rights Assurances**. As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

   "The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible."

   Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the "contractor" awarded the contract.

6. **Subcontracts**. If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under $25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

□ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;

2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;

4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR –

□ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over $150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of $150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

□ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

□ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of $150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

□ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

□ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF_____

_____declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).

2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.

3. That his/her proposal is genuine and is not collusive or a sham proposal.

4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,

5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under $100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;

2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and

3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF "BEST VALUE" SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a "Best Value" basis, which the Federal Transit Administration's (FTA) Best Practices Manual defines as follows:

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE
GENERAL SERVICES AGREEMENT WITH
[insert full name of Contractor and Project Name and/or number]

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Contractor to complete Compressed Natural Gas (CNG) Fueling Station Maintenance Services (Project); and

B. On August 13, 2024, the City issued a Request for Proposals (RFP) for the Compressed Natural Gas (CNG) Fueling Station Maintenance Services (Project). On September 26, 2024, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.

C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work**. Contractor shall provide the goods and services required to complete the Project, described in Exhibit "A" attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City's prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.

2. **Time of Performance**. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started

and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit "C", attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed $_____. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville's appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City's satisfaction, within 30 days after the City's receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor's services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

4. Indemnification. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

1. Insurance. Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

1.1. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than

$4,000,000 general aggregate and $2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

1.2. Automobile Liability (with coverage at least as broad as ISO CA 00 01 07 097, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

1.3. Workers' Compensation coverage shall be maintained as required by the State of California.

1.4. Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than $1,000,000 per claim.

1.5. Endorsements. Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

1.5.1. The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

1.5.2. For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

1.6. Notice of Cancellation. Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

1.7. Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

1.8. Insurance Certificate. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

1.9. Substitute Certificates. Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

1.10. Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems

necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination**. The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

3. **Dispute Resolution**. If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

   3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.

   3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,

   3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

   3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.

   3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

   3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

4. **Labor Code Compliance**. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a

"public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates**. These prevailing wage rates are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

6. **Registration with DIR**. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5

7. **Monitoring**. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

8. **Ownership of Work**. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

9. **Independent Contractor Status**. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

10. **Conflicts of Interest**. Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.

11. **Rebates, Kickbacks, or Other Unlawful Consideration**. Contractor warrants this this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. **Notices**. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party

to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:	To Contractor
City of Porterville	_____
Transportation Department	_____
291 N. Main Street	_____
Porterville, CA 93257	_____

13. Miscellaneous

13.1. **Standard of Care**. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. **Amendments**. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. **Waivers**. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. **Assignment and Delegation**. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. **Jurisdiction and Venue**. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. **Compliance with Law**. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin, handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

13.7. Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.

13.8. Business License. Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.

13.9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

13.10. Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

13.11. Severability. If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

13.12. Controlling Provisions. In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.

13.13. Entire Agreement. This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13.14. Counterparts. City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

13.15. Expenses for Enforcement. Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert

witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

City of Porterville 291 N. Main Street Porterville, CA 93257	**Contractor** _____ _____
By: Martha A. Flores_____	By: _____
Title: Mayor_____	Title: _____
Date: _____	Date: _____
	Federal Employer Tax ID No. _____
Signature: _____	Signature: _____

Attest:

_____
Patrice Hildreth, City Clerk

Approved as to form:

_____
Julia M. Lew, City Attorney

Exhibits:

A. RFP No.XXX Charging Station Replacement
B. Contractor Proposal
C. Compensation

SUBJECT: Award of Contract - Golf Course Management Services

SOURCE: Parks and Leisure Services

COMMENT: At its meeting on June 18, 2024, the City Council authorized staff to publish a Request For Proposals (RFP) for golf course management services. Staff welcomed proposals from individuals and companies interested in delivering high-quality golf course services; maintaining the golf course and related facilities in good and neat order; and operating the golf course in an orderly manner with a commitment to exceptional customer service, in accordance with the terms and conditions set forth in the RFP. An example of a few of the proposal requirements included being a certified PGA Professional with at least three (3) years of experience in golf course management, possessing programming experience, marketing and promoting the course and amenities, and preparation of financial operating statements. A full list of the scope of services and requirements is available within the RFP No. 23/24 – RFP1973 document.

Two proposals were received, one from the current local operator, Mr. Casey Butler, and one from Golf Automation of Las Vegas. The two proposals were reviewed by the Rating & Ranking Committee and a demonstration of their understanding of the requested services, relevant experience, familiarity of geographic location, vision, and fees were provided by both proposers. Mr. Butler's proposed fee is twenty-two (22) percent of all green fees and twenty-five (25) percent of all cart rentals, in addition to all revenue generated from the pro shop, restaurant, and driving range. Golf Automation included two fee methods in their proposal. Method one is a fee of $17,900 per month pass-through sales tax (paid from the receipts), plus ten (10) percent of the green and cart fees revenue, in addition to all revenue generated from the pro shop, restaurant, and driving range. Method two is $8,000 per month, plus forty (40) percent of the green and cart fees revenue will pass through sales tax (paid from receipts), in addition to all revenue generated from the pro shop, restaurant, and driving range. Golf Automation also stated they were open to negotiating another pricing model with the city if necessary. The proposal from Mr. Casey Butler ranked the highest overall with an average score of 93/100. Golf Automation's average score was 76/100. Mr. Butler scored significantly higher in two categories. The first was the category relating to familiarity with the geographic location, which included knowledge of the community and clientele, degree of interest shown, and proximity of the proposer to Porterville. The second category was the proposer's successful experience providing services on a similar scale, and key personnel's professional background and caliber.

Mr. Butler has been in a golf course management services contract with the City of Porterville for the past fourteen (14) years. He has worked through hardships such as the course closing down during COVID-19, and excessive wet conditions for a significant period of time. Mr. Butler has maintained a positive attitude, along with a passion to lead the golf course through tough times and on to a brighter future. Mr. Butler has made investments in the facility, including kitchen upgrades, creating an entertainment room, and constructing individual tee boxes on the driving range. His successes include developing a summer youth golf league, hosting multiple local high school golf teams who utilize the facility as their home course, and assisting with the transformation from old golf carts to a new contract with Club Car.

RECOMMENDATION: That the City Council authorize staff to negotiate a contract with Casey Butler, contingent upon the City Attorney's review, for a five-year contract for golf course management services.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: Patrice Hildreth, City Manager

SUBJECT: Acceptance of Project - Golf Course Driving Range Netting Project

SOURCE: Engineering and Project Management

COMMENT: Judge Netting, Inc., has completed the Golf Course Driving Range Netting Project per plans and specifications. Their contract included the replacement of the netting and poles at the City's golf course driving range. This project also raised the height of the existing meeting on the south side of the driving range to fifty feet (50') for better protection of the neighboring apartment units.

Staff tracks construction costs of all Capital Improvement Projects and reports construction expenditures when the project is accepted by City Council. At its meeting on November 3, 2023, the Council authorized American Rescue Plan Act (ARPA) funds in the amount of $300,000 for this project. Towards the end of the course of construction, the contractor unexpectedly ran into veins of very dense rock when drilling a portion of the thirteen-foot deep holes for some of the poles along the southwest corner of the driving range. The veins of very solid rock created delays to the project schedule of eight (8) days and required the need for the rental of specialty drilling equipment to complete the project. This added work was tracked on a time and materials basis. The following itemizes the total construction related costs into two categories: 1) the construction contract, and 2) a combination of construction management and quality control.

1. Final Construction Cost is $310,708
2. Construction management, quality control, and inspection service costs are $1,235

Total project construction costs equate to $311,943, which is $11,943 more than the overall budgeted amount due to the change order work created by the unforeseen circumstances. Funding for the overage is available in ARPA funds that can be re-appropriated from the Hayes Field Lighting Project currently under construction and nearing completion.

Judge Netting, Inc., requests that the Council accept the project as complete. Staff has reviewed the work and found it acceptable.

RECOMMENDATION: That the City Council:
1. Accept the project as complete;
2. Authorize a re-appropriation of American Rescue Plan Act (ARPA) funds in the amount of $11,943 from the Hayes Field

Lighting Project; and
3. Authorize the filing of the Notice of Completion by the City Clerk.

ATTACHMENTS: 1. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: Patrice Hildreth, City Manager


Forrester Ct
E Willow Ave
E Willow Ave
E Olive Ave
E Olive Ave
E Olive Ave
N Park Dr
S Park Dr
S Park St
S Park St
Propak Logistics
S Corona Dr
S Leggett St
S Doree St
Dixie Dr
Dixie Dr
S Leggett St
erville's Barn Theater
S Williams Dr
S Williams Dr
Porterville Municipal Golf Course
E Isham Ave
E Isham Ave
S Corona Dr
S Sierra Vista St
S Maurer St
Corona Dr
S Williams Dr
S Corona Dr
E Orange Ave
E Orange Ave
E Orange Ave
8-10 Market
S Corona Dr
S Maurer St
Google

SUBJECT: ESRI Maintenance Contract

SOURCE: Community Development

COMMENT: The City has utilized Environmental Systems Research Institute (ESRI) software for geographical information system (GIS) needs since 2004. At its August 21, 2018, meeting, the City Council approved a contract with ESRI for a more robust commercial GIS system. The GIS software includes an annual maintenance agreement, which includes ArcGIS Enterprise, basic licenses, an advanced license, viewer licenses, and a network analyst extension. The various licenses support the needs of multiple Departments in the City, including Police, Fire, Public Works, Engineering and Project Management, Community Development, and Finance. The City's emergency services dispatch system and building permit system also utilize the GIS system and data. The annual maintenance fee is $12,492.95, which is available through the General Fund and applicable enterprise fund accounts. The benefits of maintaining the GIS software include receiving up-to-date software upgrades, technical support, training, and access to industry solutions.

RECOMMENDATION: That City Council authorizes staff to sign the annual maintenance agreement renewal with the Environmental Systems Research Institute (ESRI).

ATTACHMENTS: 1. Esri Renewal Quote # 26226374

Appropriated/Funded:

Review By:

Department Director:
Claudia Calderon, Community Development Director

Final Approver: Patrice Hildreth, City Manager

Esri Inc
380 New York St
Redlands CA 92373-8118

Subject: Renewal Quotation

Date: 07/25/2024
To: Rachel Ginsberg
Organization: City of Porterville
Community Development
Fax #: 559-781-6437 **Phone #:** 559-781-7875

From: Heather Carmody
Fax #: 909-793-4801 **Phone #:** + 19093692314 Ext. 2314
Email: HCARMODY@ESRI.COM

Number of pages transmitted (including this cover sheet): 4

Quotation #26226374
Document Date: 07/25/2024

~ REVISED QUOTE ~

Please find the attached quotation for your forthcoming term. Keeping your term current may entitle you to exclusive benefits, and if you choose to discontinue your coverage, you will become ineligible for these valuable benefits and services.

If your quote is regarding software maintenance renewal, visit the following website for details regarding the maintenance program benefits at your licensing level
http://www.esri.com/apps/products/maintenance/qualifying.cfm

All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your coverage at a later date.

Please note: Certain programs and license types may have varying benefits. Complimentary User Conference registrations, software support, and software and data updates are not included in all programs.

Customers who have multiple copies of certain Esri licenses may have the option of supporting some of their licenses with secondary maintenance.

For information about the terms of use for Esri products as well as purchase order terms and conditions, please visit
http://www.esri.com/legal/licensing/software-license.html

If you have any questions or need additional information, please contact Customer Service at 888-377-4575 option 5.

380 New York St
Redlands, CA 92373-8118
Phone: + 190936923142314
Fax #: 909-793-4801

Quotation

Date: 07/25/2024 **Quotation Number:** 26226374

Send Purchase Orders To:
Environmental Systems Research Institute, Inc.
380 New York Street
Redlands, CA 92373-8100
Attn: Heather Carmody

Please include the following remittance address on your Purchase Order:
Environmental Systems Research Institute, Inc.
P.O. Box 741076
Los Angeles, CA 90074-1076

City of Porterville
Community Development
GIS
291 N Main St
Porterville CA 93257-3737
Attn: Rachel Ginsberg
Email: rginsberg@ci.porterville.ca.us
Customer Number: 129405

For questions regarding this document, please contact Customer Service at 888-377-4575.

Item	Qty	Material#	Unit Price	Extended Price
10	1	93094 ArcGIS Desktop Basic with Extensions Single Use Primary Maintenance Start Date: 10/24/2024 End Date: 10/23/2025 Subscription ID: 4502221141	1,160.00	1,160.00
1010	5	87193 ArcGIS Desktop Basic Single Use Secondary Maintenance Start Date: 10/24/2024 End Date: 10/23/2025 Subscription ID: 4502221141	350.00	1,750.00
2010	1	122181 ArcGIS Desktop Advanced Single Use Primary Maintenance Start Date: 10/24/2024 End Date: 10/23/2025 Subscription ID: 4502221141	3,475.00	3,475.00
3010	8	153147 ArcGIS Online Viewer User Type Annual Subscription	125.00	1,000.00

Please note Esri has introduced a price change and this quote reflects current pricing for your organization. It is important to us that we are able to continue to deliver value through enhancements to products, solutions, and capabilities.

Your renewal provides access to all the benefits you are familiar with, which you can review at https://go.esri.com/maintenance
For questions related to the price change, please reach out to your assigned Esri Account Manager.

Quotation is valid for 90 days from document date.

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

To expedite your order, please reference your customer number and this quotation number on your purchase order.

380 New York St
Redlands, CA 92373-8118
Phone: + 190936923142314
Fax #: 909-793-4801

Quotation

Date: 07/25/2024 **Quotation Number:** 26226374

Item	Qty	Material#	Unit Price	Extended Price
		Start Date: 10/24/2024 End Date: 10/23/2025 Subscription ID: 4502221141		
4010	1	161328 ArcGIS Enterprise Standard Up to Four Cores Maintenance Start Date: 12/12/2024 End Date: 10/23/2025	5,107.95	5,107.95

Item Subtotal		12,492.95
Estimated Tax		0.00
Total	**USD**	**12,492.95**

DUNS/CEC: 06-313-4175 CAGE: 0AMS3

380 New York St
Redlands, CA 92373-8118
Phone: + 190936923142314
Fax #: 909-793-4801

Quotation

Date: 07/25/2024 **Quotation No:** 26226374 **Customer No:** 129405

Item	Qty	Material#	Unit Price	Extended Price

Renew online by using a credit card, purchase order, or by requesting an invoice at https://www.esri.com/en-us/quote-order/renew.

If there are any changes required to your quotation please respond to this email and indicate any changes in your invoice authorization.

If you choose to discontinue your support, you will become ineligible for support benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your support coverage at a later date.

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at http://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf , and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at http://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at http://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, EA, GSA, BPA) on your ordering document.

SUBJECT: Authorization to Negotiate Consultant Agreement – Active Transportation Plan

SOURCE: Community Development

COMMENT: At its meeting on June 4, 2024, the City Council authorized the distribution of a Request for Qualifications (RFQ) for consulting services to prepare an active transportation plan. In response to the RFQ, staff received two Statements of Qualifications (SOQs) for the development of an active transportation plan. Staff reviewed and rated the SOQs from the firms in accordance with the "Policy for Selecting Consultants to Provide Architectural, Engineering, and Similar Services" to ensure that the firm is qualified and that their submittal met the guidelines of the RFQ. Additionally, interviews were conducted with each consultant. The details of the consultants and their respective scores (out of 50 possible points) are as follows:

1, GHD, Inc 47 pts
Fresno, CA

2. Toole Design 41 pts
Oakland, CA

Staff is pleased with the qualifications of the listed consultants and their interest in the project and recommends negotiating a contract with the highest ranked, GHD, Inc. at this time. Staff will seek Council approval of a Service Agreement at a later meeting.

RECOMMENDATION: That the City Council:
1. Authorize staff to negotiate a scope of services and contract with GHD, Inc.; and
2. Authorize staff to negotiate a scope of services and contract with Toole Design if staff is unable to negotiate an acceptable contract with GHD, Inc.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Claudia Calderon, Community Development Director

Final Approver: Patrice Hildreth, City Manager

SUBJECT: Approving a Resolution for FY 2023 Transportation Development Act (TDA) Claims

SOURCE: Public Works

COMMENT: The Transportation Development Act (TDA) was passed in 1971 providing transit funding for local agencies from two sources: The Local Transportation Fund (LTF), derived through a 1/4 cent general sales tax collected statewide; and the State Transit Assistance (STA) Fund, derived from a statewide sales tax on gasoline and diesel fuels and augmented by funds received via Senate Bill 1 (SB 1).

The Tulare County Association of Governments (TCAG) approves the apportionments for transit services for each fiscal year (FY), accounting for transfer agreements between agencies. TCAG reviews the claims and instructs the County Auditor on the payment of funds to each respective agency. Many requirements exist for approving claims, including items such as an adopted transit budget, farebox recovery ratios, vehicle safety inspection reports, and compliance with fiscal and performance audits. In addition, the 2024 update to the TDA Claims Manual requires agencies to: 1) submit a resolution for the proposed claim or a resolution of concurrence from the agency contributing to the proposed claim; 2) submit a draft Short Range Transit Plan (SRTP) by July 1, 2025; and 3) fully utilize available Federal Transit Administration (FTA) Section 5307 and STA funds before LTF can be used as a local match. Once transit services have been fully funded, the remaining LTF balance may be transferred to street and road projects.

For FY 2023, TCAG apportioned the City $991,292.10 in STA funds and $3,567,034.28 in LTF funds. In addition, during FY 2023, the City was a member of the Tulare County Regional Transit Agency (TCRTA) and per the TCRTA Joint Powers Agreement, the member agencies may authorize TCRTA to submit claims for its member's allocated TDA funds if unanimously approved by the directors present and voting at a meeting.

It is staff's recommendation that, based on the adopted FY 2023 TCRTA Transit Budget, the City Council authorize TCRTA to submit a FY 2023 TDA claim in the amounts of $991,292.10 in STA funds and $603,283 in LTF funds. It is also staff's recommendation that the City Council authorize staff to submit an LTF claim for the remaining balance of $2,963,751.28, subject to the 2024 TCAG TDA Claims Manual.

RECOMMENDATION: That the City Council adopted the draft resolution authorizing:
1. The Tulare County Regional Transit Agency to submit a FY 2023-24 TDA claim in the amounts of $991,292.10 in STA funds and $603,283 in LTF funds based on their adopted FY 2023 budget; and
2. The City of Porterville to submit a FY 2023-24 TDA claim for the remaining balance of LTF funds in the amount of $2,963,751.28.

ATTACHMENTS: 1. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

RESOLUTION NO. _____-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE FOR FISCAL YEAR 2023-24 TRANSPORTATION DEVELOPMENT ACT CLAIM BY THE CITY OF PORTERVILLE AND CONCURRENCE TO A CLAIM BY THE TULARE COUNTY REGIONAL TRANSIT AGENCY

WHEREAS, pursuant to Government Code Section 66500 et seq., the Tulare County Association of Governments ("TCAG") is the regional transportation planning agency for Tulare County; and

WHEREAS, the Mills-Alquist-Deddeh Act ("Transportation Development Act" or "TDA"), Public Utilities Code Section 99200 et seq., makes certain retail sales tax revenues available to eligible claimants for public transportation projects and purposes; and

WHEREAS, TCAG is responsible for the allocation of TDA funds to eligible claimants within the Tulare County region; and

WHEREAS, the City of Porterville is an eligible claimant of TDA funds; and

WHEREAS, for the fiscal year 2023-24 the City of Porterville is allocated $991,292.10 in State Transit Assistance ("STA") funds and $3,567,034.28 in Local Transportation Funds ("LTF"); and

WHEREAS, during fiscal year 2023-24, the City of Porterville was a member agency of the Tulare County Regional Transit Agency ("TCRTA"); and

WHEREAS, the TCRTA Joint Powers Agreement provides the member agencies may authorize TCRTA to submit claims for its member's allocated TDA funds if unanimously approved by the directors present and voting at a meeting; and

WHEREAS, the Tulare County Regional Transit Agency's fiscal year 2023-24 transit budget, as amended, lists the amounts of and purposes for the fiscal year 2023-24 TDA allocations requested.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Porterville City Council does hereby authorize a FY 2023-24 TDA claim by the Tulare County Regional Transit Agency in the amounts of $991,292.19 in State Transit Assistance and $603,283 in Local Transportation funds, subject to the TCAG 2024 TDA Claims Manual; and

2. That the Porterville City Council does hereby approve a FY 2023-24 TDA claim by the City of Porterville for the remaining $2,963,751.28 in Local Transportation funds, subject to the TCAG 2024 TDA Claims Manual; and

PASSED, APPROVED AND ADOPTED this 6th day of August 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

SUBJECT: General Plan Conformance APN 253-203-003

SOURCE: Community Development

BACKGROUND: The City of Porterville received notice from the County of Tulare General Services Agency of the auctioning of surplus land located within the city limits. The subject property is located at 87 E. Morton Avenue and 379 North Second Street (APN 253-203-003) is approximately 1.32 acres, consisting of a former courthouse, sheriff's substation, substation annex, and parking areas. The County of Tulare General Services Agency made a formal request by letter dated, July 16, 2024 (Attachment A), as part of the noticing required for the disposition of real property outlined under Government Code Section 65402(b). The City Council is the "Planning Agency" for the City of Porterville and is charged with making the determination of whether the disposition of the subject property is consistent with the Porterville 2030 General Plan.

Pursuant to Government Code Section 65402(b) "A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution."

The City Council is the "Planning Agency" for the City of Porterville. The City Council is charged with making the determination of whether the disposition of the subject property is consistent with the Porterville 2030 General Plan.

COMMENT:

ANALYSIS: The subject site is located at 87 E. Morton Avenue and 379 North Second Street (APN 253-203-003). The subject property is currently developed as a former courthouse, Sheriff Department substation, substation annex, and parking area. The site has a General Plan Land Use of Public & Institutional. Government Code Section 65402(b) requires that the "Planning Agency" make a finding of General Plan Consistency for the disposition of real property by a county if that property is within the corporate limits of a city and that city has an applicable general plan.

The Porterville 2030 General Plan identifies Public & Institutional land use classification for "Public and quasi-public facilities, such as government facilities, hospitals, and cemeteries." The Porterville 2030 General Plan also identifies community facilities, law enforcement and fire facilities, and other public infrastructure as potential uses.
The former use of a courthouse at 87 E. Morton Ave. and the current use of a Sheriff's station at 379 North Second Street are compatible with the General Plan Land Use designation of Public Institutional and the Guiding Policies of LU-G-17. Future proposed uses shall advance the goals and objectives of the General Plan policies and other applicable plans that the City has adopted.

ENVIRONMENTAL REVIEW: The activity would not constitute as a "project" as defined in the California Environmental Quality Act (CEQA) as it comprises as an administrative action by the city that would not directly or indirectly result in any physical changes to the environment.

RECOMMENDATION: That the City Council adopt the draft Resolution, detailing the results of its investigations pursuant to California Government Code Section 65402(b), and forward said resolution to the County of Tulare General Services Agency.

ATTACHMENTS:

1. Fig. 3 - Zoning
2. GPLU
3. Locator Map
4. Attachment A_Proposed Sale of courthouse 87 E Morton and 379 N 2nd St parcel no 253203003
5. Draft Resolution

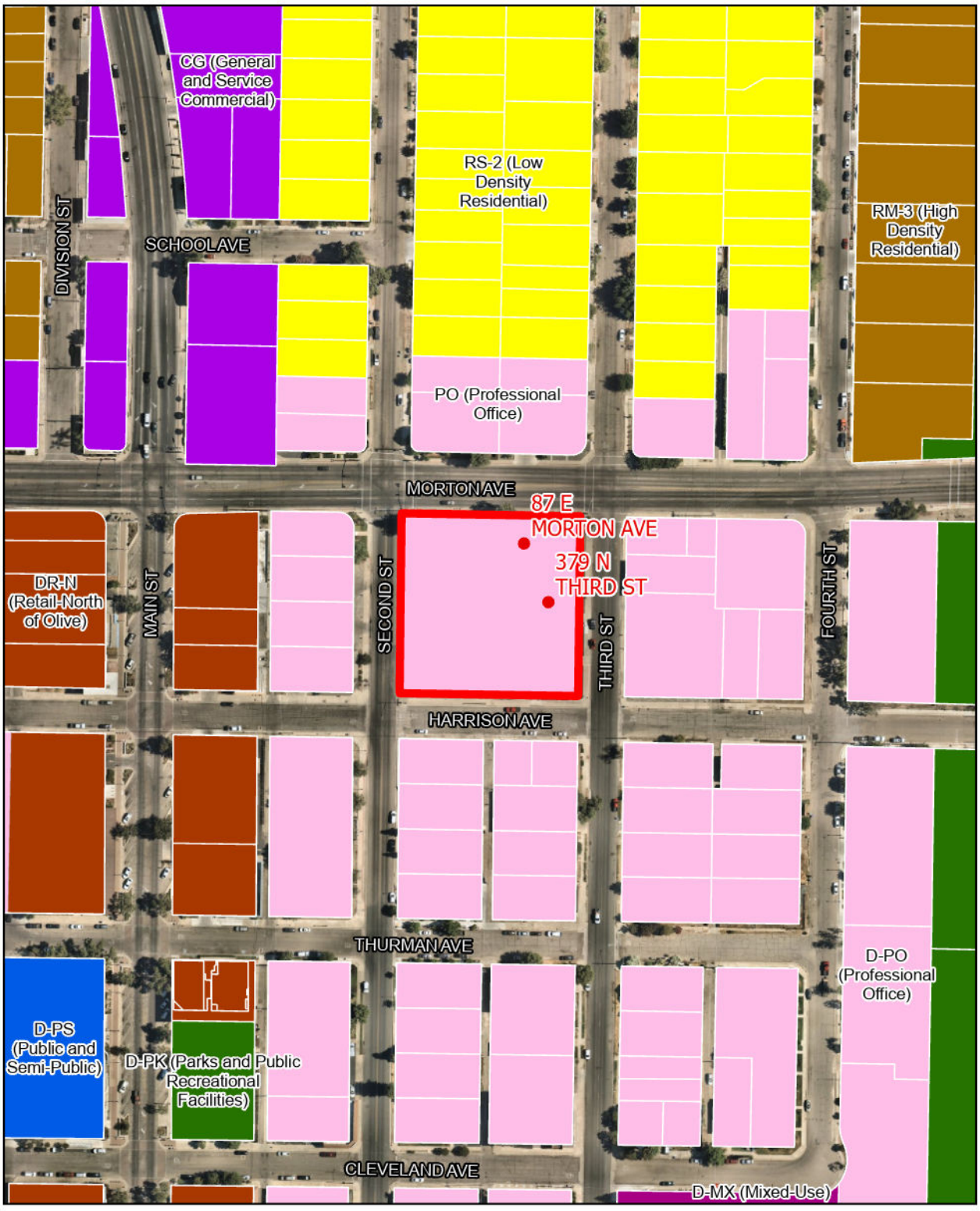
Appropriated/Funded:

Review By:

Department Director:
Claudia Calderon, Community Development Director

Final Approver: Patrice Hildreth, City Manager

Zoning
APN 253-203-003



87 E Morton Ave
379 N Third St

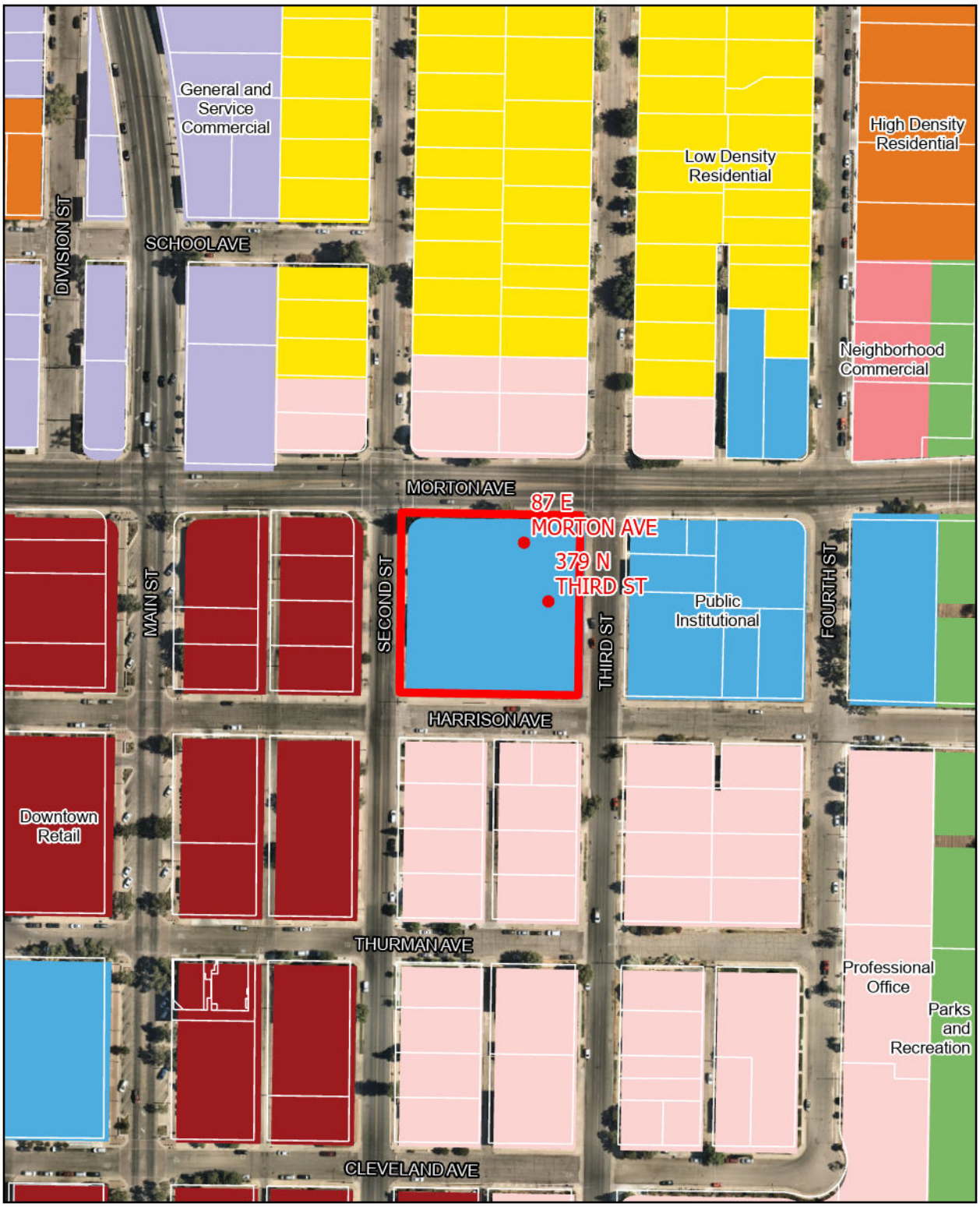
Project Location

N

1 in = 200 feet

Date Printed: 7/30/2024 by the Community Development Department

GPLU
APN 253-203-003



87 E Morton Ave
379 N Third St

Project Location

1 in = 200 feet

N

Date Printed: 7/30/2024 by the Community Development Department

Locator Map
APN 253-203-003



87 E Morton Ave
379 N Third St

Project Location

1 in = 200 feet

N

Date Printed: 7/30/2024 by the Community Development Department

COUNTY OF TULARE
GENERAL SERVICES AGENCY

July 16, 2024

Claudia Calderon
City of Porterville
Planning Division.
291 North Main Street
Porterville, CA 93257

Re: Proposed Sale of 87 E. Morton Ave., Porterville and 379 N. 2nd St., Porterville, Assessor's Parcel No. 253-203-003

Dear Ms. Calderon:

Notice is hereby given pursuant to California Government Code section 65402(b) that the County of Tulare has declared as surplus land and proposes to sell to the highest responsible bidder the real property located at 87 E. Morton Ave., Porterville and 379 N. 2nd St., Porterville, also identified as Assessor's Parcel No. 253-203-003. The real property consists of a former Courthouse, Sheriff's Substation, Substation Annex, and parking areas and is zoned and subject to uses consistent with D-PO Downtown Professional Office.

Pursuant to Government Code section 65402(b), the City of Porterville has forty (40) days within which to determine whether the location, purpose, and extent of such proposed disposition is in conformity with the City's adopted General Plan. Under the statute, if the City fails to report within the forty-day period, then it shall be conclusively deemed a finding that the proposed disposition is in conformity with said adopted General Plan.

Please contact the undersigned at (559) 205-1135 if you have questions or need further information on this matter. Thank you.

Sincerely,

Jacalynn Wells
Property Manager

RECEIVED

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Community Development Department

PHONE (559) 205-1100 **FAX** (559) 624-1022 **WEB** WWW.TULARECOUNTY.CA.GOV/GENERALSERVICES
ADDRESS 2637 W. BURREL AVE., SUITE 200, VISALIA, CA 93291

RESOLUTION NO. _____-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE MAKING DETERMINATIONS PURSUANT TO GOVERNMENT CODE SECTION 65402(b) IN THE MATTER OF SITE DISPOSITION BY COUNTY OF TULARE GENERAL SERVICES AGENCY

WHEREAS: in a letter dated July 16, 2024, the County of Tulare General Services Agency (County) did request that the City of Porterville (City) conduct an investigation and make determinations as required pursuant to Government Code section 65402(b); and

WHEREAS: pursuant to Government Code Section 65042(b), responses to the County's inquiries are required within 40 days, from the date of notification by the County; and

WHEREAS: at a regular meeting on August 6, 2024, the City Council of the City of Porterville did consider said request from the County; and

WHEREAS: pursuant to Government Code Section 65402(b), the County has requested that the City provide a report regarding the County's proposed disposition of approximately 1.32 acres of surplus land, located at 87 E. Morton Ave., and 379 North Second Street, APN 253-203-003 (Site), consisting of a former courthouse, sheriff substation, substation annex, and parking areas; and

WHEREAS: pursuant to Government Code Section 65402(b), the County has requested that the City provide a report regarding the consistency of the proposed disposition of the Site with the City of Porterville 2030 General Plan; and

WHEREAS: the Land Use Element of the Porterville 2030 General Plan identifies the Site as Public and Institutional, in which the current land use is permitted by right; and

WHEREAS: the City would not be able to make a determination about the consistency of an unknown use with the Porterville 2030 General Plan.

BE IT RESOLVED that the City Council does hereby make the following finding pursuant to Government Code Section 65402(b):

That the current land use of the Site is consistent with the Land Use Element of the City of Porterville General Plan and the proposal to dispose of the Site would be consistent with the Land Use Element of the City of Porterville General Plan, so long as any future development complies with guiding policies of the Porterville 2030 General Plan, LU-G-17 & LU-G 18, as well as the basic description of Public & Institutional, contained within the Porterville 2030 General Plan. The City acknowledges that pursuant to Section 65402(b), it has been granted the opportunity to review and comment on consistency with its General Plan.

BE IT FURTHER RESOLVED that the findings contained in this Resolution No. ___-2024 shall constitute the reports of the City of Porterville in response to the respective inquiries made by County of Tulare General Services Agency regarding disposition of the Site as surplus land at an auction, said Resolution to be forwarded to the County for its use.

PASSED, **APPROVED**, **AND ADOPTED** this 6th day of August, 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel- Moraga,
Acting Chief Deputy City Clerk

SUBJECT: Participation in Kroger Opioid Settlement

SOURCE: City Manager's Office

COMMENT: A new national settlement ($1.2 billion, paid out over 11 years) has been reached with Kroger providing settlement fund payments to states including California for distribution to participating local subdivisions. If Porterville elects to participate, its funding allocation will be provided to the County of Tulare, consistent with the other settlement payments the City opted into in 2021 and other recent years, unless otherwise specified by the City.

Seventy percent (70%) of the settlement fund payments are allocated to the CA Abatement Accounts Fund, which provides local allocations as set forth in the exhibit to this report. Porterville's weighted allocation percentage is .0171845%. Tulare County must use 50% of the funds received for specific "high impact" abatement activities, such as funding for substance use disorder facilities, new or expanded substance use infrastructure, addressing the needs of communities of color and vulnerable populations who are disproportionately impacted by substance use disorder, justice/treatment diversion programs, intervention programs for vulnerable youth, the purchase of naloxone, and other purposes as added by DHCS.

If the City approves its participation, the subdivision participation rate will be used to determine whether the participation level is sufficient for the settlement to move forward. The City's release is only effective if the settlement moves forward. The City must participate if it wishes to receive its share (of have its share allocated to the County). Actual allocation amounts are determined at a later date. The deadline to opt in is August 12, 2024.

RECOMMENDATION: That the City Council approve participation in the settlement, and authorize the City Manager and/or City Attorney to execute the Subdivision Participation and Release Form and California State-Subdivision Agreement, and any other necessary or appropriate documents necessary for the City to ensure receipt and use of its settlement fund allocation by the State and the County of Tulare.

ATTACHMENTS:
1. Action_Required_Kroger_National_Opioid_Settl (1)
2. krogerStatement_of_PEC

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager

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New National Opioids Settlement: Kroger
Opioids Implementation Administrator
opioidsparticipation@rubris.com

Porterville city, CA
Reference Number: CL-789860

TO LOCAL POLITICAL SUBDIVISIONS:

THIS PACKAGE CONTAINS DOCUMENTATION TO PARTICIPATE IN THE NEW NATIONAL OPIOIDS SETTLEMENT. YOU MUST TAKE ACTION IN ORDER TO PARTICIPATE.

Deadline: August 12, 2024

A new proposed national opioids settlement ("*New National Opioids Settlement*") has been reached with Kroger ("Settling Defendant"). This *Participation Package* is a follow-up communication to the *Notice of National Opioids Settlement* recently received electronically by your subdivision.

You are receiving this *Participation Package* because California is participating in the Kroger settlement.

This electronic envelope contains three attachments:

- The *Participation Form* for the Kroger settlement, including a release of any claims;
- California State Subdivision Agreement for Kroger; and
- Side-letter agreement between California and Kroger

The *Participation Form and California State-Subdivision Agreement* must be executed, without alteration, and submitted on or before August 12, 2024, in order for your subdivision to be considered for initial participation calculations and payment eligibility.

The side-letter agreement between California and Kroger modifies, as it applies to California, one injunctive relief term contained in Exhibit P, Section IX(5)(1) of the Kroger National Settlement Agreement.

Based upon subdivision participation forms received on or before August 12, 2024, the subdivision participation rate will be used to determine whether participation is sufficient for the settlement to move forward and whether a state earns its maximum potential payment under the settlement. If the settlement moves forward, your release will become effective. If a settlement does not move forward, that release will not become effective.

Any subdivision that does not participate cannot directly share in the settlement funds, even if the subdivision's state is settling and other participating subdivisions are sharing in settlement funds. Any subdivision that does not participate may also reduce the amount of money for programs to remediate the opioid crisis in its state.

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Please note, a subdivision will not necessarily directly receive settlement funds by participating; decisions on how settlement funds will be allocated within a state are subject to intrastate agreements or state statutes.

You are encouraged to discuss the terms and benefits of the *New National Opioids Settlement* with your city attorney/county counsel, outside counsel representing your city/county on opioid matters, the Attorney General's Office, and other contacts within your state. Many states are implementing and allocating funds for this new settlement the same as they did for the prior opioids settlements with McKesson, Cardinal, Cencora (formerly AmerisourceBergen), J&J/Janssen, Teva, Allergan, CVS, Walgreens, and Walmart but states may choose to treat this settlement differently.

Information and documents regarding the *New National Opioids Settlement* and how it is being implemented in your state and how funds will be allocated within your state can be found on the national settlement website at https://nationalopioidsettlement.com/ and the California Attorney General's website at https://oag.ca.gov/opioids. This website will be supplemented as additional documents are created. Please also refer to the Side-Letter Agreement with Kroger, which modifies the *Kroger National Opioid Settlement's* injunctive relief within the State of California.

How to return signed forms:

There are three methods for returning the executed *Participation Form, the California-State Subdivision Agreement ("Subdivision Agreement"),* and any supporting documentation to the Implementation Administrator:

(1) *Electronic Signature via DocuSign*: Executing the *Participation Form and the Subdivision Agreement* electronically through DocuSign will return the signed form to the Implementation Administrator and associate your form with your subdivision's records. Electronic signature is the most efficient method for returning the *Participation Form and the Subdivision Agreement*, allowing for more timely participation and the potential to meet higher settlement payment thresholds, and is therefore strongly encouraged.

(2) *Manual Signature returned via DocuSign*: DocuSign allows forms to be downloaded, signed manually, then uploaded to DocuSign and returned automatically to the Implementation Administrator. Please be sure to complete all fields and note that execution and return of both the Subdivision Agreement and the Participation Form are required for participation in the corresponding settlement. As with electronic signature, returning a manually signed *Participation Form and Subdivision Agreement* via DocuSign will associate your signed forms with your subdivision's records.

(3) *Manual Signature returned via electronic mail*: If your subdivision is unable to return an executed *Participation Form and Subdivision Agreement* using DocuSign, the signed *Participation Form and Subdivision Agreement* may be returned via electronic mail to opioidsparticipation@rubris.com. Please include the name, state, and reference ID of your subdivision in the body of

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the email and use the subject line Settlement Participation Form – [Subdivision Name, Subdivision State] – [Reference ID]. Note that execution and return of both the Subdivision Agreement and the Participation Form are required for participation in the corresponding settlement.

Detailed instructions on how to sign and return the *Participation Form and Subdivision Agreement*, including changing the authorized signer, can be found at https://nationalopioidsettlement.com/. You may also contact opioidsparticipation@rubris.com.

The sign-on period for subdivisions ends on August 12, 2024.

If you have any questions about executing the *Participation Form*, please contact your city attorney/county counsel, outside counsel representing your city/county on opioids matters, the Implementation Administrator at opioidsparticipation@rubris.com, or the California Attorney General's Office at opioidsettlement-localgovernment@doj.ca.gov.

Thank you,

New National Opioids Settlement Implementation Administrator

The Implementation Administrator is retained to provide the settlement notice required by the New National Opioids Settlement and to manage the collection of the Participation Form.

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Subdivision Participation and Release Form

Governmental Entity: Porterville city	State: CA
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 22, 2024 ("*Kroger Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Kroger Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Kroger Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs' Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at *https://nationalopioidsettlement.com/*.

3. The Governmental Entity agrees to the terms of the Kroger Settlement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Kroger Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Kroger Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Kroger Settlement. The Governmental Entity likewise agrees to arbitrate before the National

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Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Kroger Settlement.

7. The Governmental Entity has the right to enforce the Kroger Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Kroger Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Kroger Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Kroger Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Kroger Settlement.

10. In connection with the releases provided for in the Kroger Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Settlement.

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11. Nothing herein is intended to modify in any way the terms of the Kroger Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Settlement in any respect, the Kroger Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

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Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Kroger Settlement

1. Introduction

Pursuant to the Kroger Settlement Agreement, dated as of March 22, 2024, and any revision thereto as well as any modification thereto entered into by the State of California and Kroger (the "Kroger Settlement Agreement"), including Section V and Exhibit O, the State of California proposes this agreement (the "CA Kroger Allocation Agreement") to govern the allocation, distribution, and use of Settlement Fund payments made to California pursuant to Sections IV and V of the Kroger Settlement Agreement. For the avoidance of doubt, this agreement does not apply to payments made pursuant to Section IX of the Kroger Settlement Agreement.

Pursuant to Exhibit O, Paragraph 4, of the Kroger Settlement Agreement, acceptance of this CA Kroger Allocation Agreement is a requirement to be an Initial Participating Subdivision.

2. Definitions

a) *CA Participating Subdivision* means a Participating Subdivision that is also (a) a Plaintiff Subdivision and/or (b) a Primary Subdivision with a population equal to or greater than 10,000. For the avoidance of doubt, eligible CA Participating Subdivisions are those California subdivisions listed in Exhibit C (excluding Litigating Special Districts) and/or Exhibit I to the Kroger Settlement Agreement.

b) *Allergan Settlement Agreement* means the Allergan Settlement Agreement dated November 22, 2022, and any revision thereto.

c) *CVS Settlement Agreement* means the CVS Settlement Agreement dated December 9, 2022, and any revision thereto as well as any modification thereto entered into by the State of California and CVS.

d) *Distributor Settlement Agreement* means the Distributor Settlement Agreement dated July 21, 2021, and any revision thereto.

e) *Janssen Settlement Agreement* means the Janssen Settlement Agreement dated July 21, 2021, and any revision thereto.

f) *Teva Settlement Agreement* means the Teva Settlement Agreement dated November 22, 2022, and any revision thereto.

g) *Walgreens Settlement Agreement* means the Walgreens Settlement Agreement dated December 9, 2022, and any revision thereto.

h) *Walmart Settlement Agreement* means the Walmart Settlement Agreement dated November 14, 2022, and any revision thereto.

i) *CA Litigating Special District* means a Litigating Special District located in California. CA Litigating Special Districts include Downey Unified School District,

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Elk Grove Unified School District, Kern High School District, Montezuma Fire Protection District (located in Stockton, California), Santa Barbara San Luis Obispo Regional Health Authority, Inland Empire Health Plan, Health Plan of San Joaquin, San Leandro Unified School District, Pleasant Valley School District Board, and LA Care Health Plan.

j) *Plaintiff Subdivision* means a Subdivision located in California, other than a CA Litigating Special District, that filed a lawsuit, on behalf of the Subdivision and/or through an official of the Subdivision on behalf of the People of the State of California, against one or more Opioid Defendants prior to October 1, 2020.

k) *Opioid Defendant* means any defendant (including but not limited to Kroger Co., Walgreen Co., Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Allergan Limited, CVS Health Corporation, CVS Pharmacy, Inc., Walmart Inc., Johnson & Johnson, Janssen Pharmaceuticals, Inc., Purdue Pharma L.P., Cardinal Health, Inc., AmerisourceBergen Corporation, and McKesson Corporation) named in a lawsuit seeking damages, abatement, or other remedies related to or caused by the opioid public health crisis in any lawsuit brought by any state or local government on or before October 1, 2020.

3. General Terms

This agreement is subject to the requirements of the Kroger Settlement Agreement, as well as applicable law, and the Kroger Settlement Agreement governs over any inconsistent provision of this CA Kroger Allocation Agreement. Terms used in this CA Kroger Allocation Agreement have the same meaning as in the Kroger Settlement Agreement unless otherwise defined herein.

Pursuant to Section V(D)(1) of the Kroger Settlement Agreement, (a) all Settlement Fund payments will be used for Opioid Remediation, except as allowed by Section V(B)(2) of the Kroger Settlement Agreement; and (b) at least seventy percent (70%) of Settlement Fund payment amounts will be used solely for future Opioid Remediation.

4. State Allocation

The Settlement Fund payments to California,[1] pursuant to the Kroger Settlement Agreement, shall be allocated as follows: 15% to the State Fund; 70% to the Abatement Accounts Fund; and 15% to the Subdivision Fund. For the avoidance of doubt, all funds allocated to California from the Settlement Fund shall be combined pursuant to this CA Kroger Allocation Agreement, and 15% of that total shall be allocated to the State of California (the "State of California Allocation"), 70% to the California Abatement Accounts Fund ("CA Abatement Accounts Fund"), and 15% to the California Subdivision Fund ("CA Subdivision Fund").

[1] For purposes of clarity, use of the term "California" refers to the geographic territory of California and the state and its local governments therein. The term "State" or "State of California" refers to the State of California as a governmental unit.

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A. State of California Allocation

Fifteen percent of the total Settlement Fund payments will be allocated to the State and used by the State for future Opioid Remediation.

B. CA Abatement Accounts Fund

i. Allocation of CA Abatement Accounts Funds

a) Seventy percent of the total Settlement Fund payments will be allocated to the CA Abatement Accounts Fund. The funds in the CA Abatement Accounts Fund will be allocated based on the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804), as adjusted to reflect only those cities and counties that are eligible, based on population or litigation status, to become a CA Participating Subdivision. The percentage from the CA Abatement Accounts Fund allocated to each CA Participating Subdivision is set forth in Appendix 1 in the column entitled abatement percentage (the "Local Allocation"). For the avoidance of doubt, CA Litigating Special Districts and California towns, cities, and counties with a population less than 10,000 are not eligible to receive an allocation of CA Abatement Accounts Funds.

b) A CA Participating Subdivision that is a county, or a city and county, will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision, and will receive payments as provided in the Kroger Settlement Agreement.

c) A CA Participating Subdivision that is a city will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision. The Local Allocation share for a city that is a CA Participating Subdivision will be paid to the county in which the city is located, rather than to the city, so long as: (a) the county is a CA Participating Subdivision, and (b) the city did not elect to receive its share of funds in the National Opioids Settlement with Distributors AmerisourceBergenCorporation, Cardinal Health, Inc., and McKesson Corporation (the "Distributors Settlement"). If a city later changes or has already changed its distribution election in the Distributors Settlement, that change in election will apply here, provided that the change in election is received by the settlement administrator at least 60 days prior to a Payment Date. A Local Allocation share allocated to a city but paid to a county is not required to be spent exclusively for abatement activities in that city, but will become part of the county's share of the CA Abatement Accounts Funds, which will be used in accordance with Section 4.B.ii (Use of CA Abatement Accounts Funds) and reported on in accordance with Section 4.B.iii (CA Abatement Accounts Fund Oversight).

d) A city within a county that is a CA Participating Subdivision may opt in or out of direct payment at any time, and it may also elect direct payment of only a portion of its share, with the remainder going to the county, by providing notice to the Settlement Fund Administrator at least 60 days prior to a Payment Date. For purposes of this CA Kroger Allocation Agreement, the Cities of Los Angeles, Oakland, San Diego, San Jose and



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Eureka will be deemed to have elected direct payment if they become Participating Subdivisions.

e) The State will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become a Participating Subdivision.

f) Funds received by a CA Participating Subdivision, and not expended or encumbered within five years of receipt and in accordance with the Kroger Settlement Agreement and this CA Kroger Allocation Agreement shall be transferred to the State; provided however, that CA Participating Subdivisions have seven years to expend or encumber CA Abatement Accounts Funds designated to support capital outlay projects before they must be transferred to the State. This provision shall not apply to the Cost Reimbursement Funds, which shall be controlled by Appendix 2.

ii. Use of CA Abatement Accounts Funds

a) The CA Abatement Accounts Funds will be used for future Opioid Remediation in one or more of the areas described in the List of Opioid Remediation Uses, which is Exhibit E to the Kroger Settlement Agreement.

b) In addition to this requirement, no less than 50% of the funds received by a CA Participating Subdivision from the Abatement Accounts Fund in each calendar year will be used for one or more of the following High Impact Abatement Activities:

(1) the provision of matching funds or operating costs for substance use disorder facilities within the Behavioral Health Continuum Infrastructure Program;

(2) creating new or expanded Substance Use Disorder ("SUD") treatment infrastructure;

(3) addressing the needs of communities of color and vulnerable populations (including sheltered and unsheltered homeless populations) that are disproportionately impacted by SUD;

(4) diversion of people with SUD from the justice system into treatment, including by providing training and resources to first and early responders (sworn and non-sworn) and implementing best practices for outreach, diversion and deflection, employability, restorative justice, and harm reduction;

(5) interventions to prevent drug addiction in vulnerable youth, including but not limited to, youth in foster care, juvenile justice-impacted youth, youth experiencing adversities related to socioeconomic status, and unhoused youth; and/or

(6) the purchase of naloxone for distribution and efforts to expand access to naloxone for opioid overdose reversals.

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c) The California Department of Health Care Services ("DHCS") may add to this list (but not delete from it) by designating additional High Impact Abatement Activities. DHCS will make reasonable efforts to consult with stakeholders, including the CA Participating Subdivisions, before adding additional High Impact Abatement Activities to this list.

d) For the avoidance of doubt, and subject to the requirements of the Kroger Settlement Agreement and applicable law, CA Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with, federal, state, local, tribal or private sector entities in pursuing Opioid Remediation activities funded from the CA Abatement Accounts Fund. Further, provided that all CA Abatement Accounts Funds are used for Opioid Remediation consistent with the Kroger Settlement Agreement and this CA Kroger Allocation Agreement, a county and any cities or towns within the county may agree to reallocate their respective shares of the CA Abatement Accounts Funds among themselves, provided that any direct distribution may only be to a CA Participating Subdivision and any CA Participating Subdivision must agree to their share being reallocated.

iii. CA Abatement Accounts Fund Oversight

a) Pursuant to Section 5 below, CA Participating Subdivisions receiving settlement funds must prepare and file reports annually regarding the use of those funds. DHCS may regularly review the reports prepared by CA Participating Subdivisions about the use of CA Abatement Accounts Funds for compliance with the Kroger Settlement Agreement and this CA Kroger Allocation Agreement.

b) If DHCS determines that a CA Participating Subdivision's use of CA Abatement Accounts Funds is inconsistent with the Kroger Settlement Agreement or this CA Kroger Allocation Agreement, whether through review of reports or information from any other sources, DHCS shall send a request to meet and confer with the CA Participating Subdivision. The parties shall meet and confer in an effort to resolve the concern.

c) If the parties are unable to reach a resolution, DHCS may conduct an audit of the Subdivision's use of the CA Abatement Accounts Funds within one year of the request to meet and confer, unless the parties mutually agree in writing to extend the meet and confer time frame.

d) If the concern still cannot be resolved, the State may bring a motion or action in the court where the State has filed its Consent Judgment to resolve the concern or otherwise enforce the requirements of the Kroger Settlement Agreement or this CA Kroger Allocation Agreement. However, in no case shall any audit be conducted, or motion be brought, as to a specific expenditure of funds, more than five years after the date on which the expenditure of the funds was reported to DHCS, in accordance with this agreement.



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e) Notwithstanding the foregoing, this Agreement does not limit the statutory or constitutional authority of any state or local agency or official to conduct audits, investigations, or other oversight activities, or to pursue administrative, civil, or criminal enforcement actions.

C. CA Subdivision Fund

i. Fifteen percent of the total Settlement Fund payments will be allocated to the CA Subdivision Fund. All funds in the CA Subdivision Fund will be allocated among the Plaintiff Subdivisions that are Initial Participating Subdivisions. The funds will be used, subject to any limits imposed by the Kroger Settlement Agreement and this CA Kroger Allocation Agreement, to fund future Opioid Remediation and reimburse past opioid-related expenses, which may include fees and expenses related to litigation, and to pay the reasonable fees and expenses of the Special Master as set forth in Appendix 2.

The CA Subdivision Funds will be allocated as follows:

a) First, funds in the CA Subdivision Fund shall be used to pay the Special Master's reasonable fees and expenses in accordance with the procedures and limitations set forth in Appendix 2 to this document;

b) Second, funds will be allocated to Plaintiff Subdivisions that are Initial Participating Subdivisions that have been awarded Costs, as defined by and in accordance with the procedures and limitations set forth in Appendix 2 to this document.

c) Funds remaining in the CA Subdivision Fund, which shall consist of no less than 50% of the total CA Subdivision Fund received in any year pursuant to Appendix 2, Section 2.c.v, will be distributed to Plaintiff Subdivisions that are Initial Participating Subdivisions, in relative proportion to the Local Allocation. These funds shall be used to fund future opioid-related projects and to reimburse past opioid-related expenses, which may include fees and expenses related to litigation against any Opioid Defendant.

D. Provision for State Back-Stop Agreement

On August 6, 2021, Judge Dan Polster of the U.S. District Court, Northern District of Ohio, Eastern Division, issued an order (ECF Docket Number 3814) ("MDL Fees Order") in the National Prescription Opiate Litigation (MDL No. 2804) "cap[ping] all applicable contingent fee agreements at 15%." Private counsel representing Plaintiff Subdivisions should seek its contingency fees and costs from the Attorney Fee Fund or Cost Funds under the Kroger Settlement Agreement, and, if applicable, the Teva Settlement Agreement, Allergan Settlement Agreement, CVS Settlement Agreement, Distributor Settlement Agreement, Janssen Settlement Agreement, and Walmart Settlement Agreement.

A Plaintiff Subdivision may separately agree to use its share of the CA Subdivision Fund to pay for fees or costs incurred by its contingency-fee counsel ("State Back-Stop Agreement"),

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pursuant to Exhibit R, section I(CC), of the Kroger Settlement Agreement and the MDL Fees Order, so long as such contingency fees do not exceed a total contingency fee of 15% of the total gross recovery of the Plaintiff Subdivision pursuant to the Kroger Settlement, inclusive of contingency fees from the national Attorney Fee Fund and this State Back-Stop Agreement. Before seeking fees or litigation costs and expenses from a State Back-Stop Agreement, private counsel representing Plaintiff Subdivisions must first seek contingency fees and costs from the Attorney Fee Fund or Cost Funds created under the Kroger Settlement Agreement. Further, private counsel may only seek reimbursement for litigation fees and costs that have not previously been reimbursed through prior settlements or judgments.

To effectuate a State Back-Stop Agreement pursuant to this section, an agreement in the form of Appendix 3 may be entered into by a Plaintiff Subdivision, private counsel, and the California Office of the Attorney General. The California Office of the Attorney General shall, upon the request of a Plaintiff Subdivision, execute any agreement executed by a Plaintiff Subdivision and its private counsel if it is in the form of Appendix 3. The California Office of the Attorney General will also consider requests from Plaintiff Subdivisions to execute and enter into agreements presented in other forms.

For the avoidance of doubt, this agreement does not require a Plaintiff Subdivision to request or enter into a State Back-Stop Agreement, and no State Back-Stop Agreement shall impose any duty or obligation on the State of California or any of its agencies or officers, including without limitation the Attorney General.

5. State and Subdivision Reporting

a) DHCS will prepare an annual written report regarding the State's use of funds from the settlement until those funds are fully expended and for one year thereafter. These reports will be made publicly available on the DHCS web site.

b) Each CA Participating Subdivision that receives payments of funds from the settlement will prepare written reports at least annually regarding the use of those funds, until those funds are fully expended and for one year thereafter. These reports will also include a certification that all funds that the CA Participating Subdivision has received through the settlement have been used in compliance with the Kroger Settlement Agreement and this CA Kroger Allocation Agreement. The report will be in a form reasonably determined by DHCS. Prior to specifying the form of the report DHCS will confer with representatives of the Plaintiff Subdivisions.

c) The State and all CA Participating Subdivisions receiving CA Abatement Accounts Funds will track all deposits and expenditures. Each such subdivision is responsible solely for the CA Abatement Accounts Funds it receives. A county is not responsible for oversight, reporting, or monitoring of CA Abatement Accounts Funds received by a city within that county that receives direct payment. Unless otherwise exempt, Subdivisions' expenditures and uses of CA Abatement Accounts Funds and other Settlement Funds will be subject to the normal budgetary and expenditure process of the Subdivision.

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d) Each Plaintiff Subdivision receiving CA Subdivision Funds will track all deposits and expenditures, as required by the Kroger Settlement Agreement and this CA Kroger Allocation Agreement. Among other things, Plaintiff Subdivisions using monies from the CA Subdivision Fund for purposes that do not qualify as Opioid Remediation must identify and include in their annual report, the amount and how such funds were used, including if used to pay attorneys' fees, investigation costs, or litigation costs. Pursuant to Section V(B)(2) of the Kroger Settlement Agreement, such information must also be reported to the Settlement Fund Administrator and Kroger.

e) In each year in which DHCS prepares an annual report DHCS will also host a meeting to discuss the annual report and the Opioid Remediation activities being carried out by the State and Participating Subdivisions.

6. Miscellaneous

a) The State or any CA Participating Subdivision may bring a motion or action in the court where the State has filed its Consent Judgment to enforce the requirements of this CA Kroger Allocation Agreement. Before filing such a motion or action the State will meet and confer with any CA Participating Subdivision that is the subject of the anticipated motion or action, and vice versa.

b) Except as provided in the Kroger Settlement Agreement, this CA Kroger Allocation Agreement is not enforceable by any party other than the State and the CA Participating Subdivisions. It does not confer any rights or remedies upon, and shall not be enforceable by, any third party.

c) Except as provided in the CA Kroger Allocation Agreement, if any provision of this agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this agreement will be valid and enforceable to the fullest extent permitted by law.

d) Except as provided in the Kroger Settlement Agreement, this agreement shall be governed by and interpreted in accordance with the laws of California.

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The undersigned, Porterville city, ACKNOWLEDGES acceptance of this Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Kroger Settlement is a requirement to be an Initial Participating Subdivision in the Kroger Settlement and ACCEPTS this Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Kroger Settlement. EXECUTED on .

Signature:

Name:

Title:

Date:

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APPENDIX 1

DISCLAIMER: The allocation percentages herein are estimates only and should not be relied on for decisions regarding legal rights, releases, waivers, or other decisions affecting current or potential legal claims. Percentages shown in the Plaintiff Subdivision Percentage column may change pursuant to Section 4.C. of the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds—Kroger Settlement, whereas the percentages shown in the Abatement Percentage column should not change. Participating Subdivisions, underlying calculations, and the calculated allocation percentages are subject to change. Regarding the column herein entitled "Abatement Percentage," pursuant to Section 4.B.e., the State of California will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become a Participating Subdivision. Regarding the column herein entitled "Plaintiff Subdivision Percentage," payments allocated to a Plaintiff Subdivision, which is not an Initial Participating Subdivision, will be re-allocated among the Plaintiff Subdivisions that are Initial Participating Subdivisions.

Regarding the column herein entitled "Abatement Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the California Abatement Account Funds received, pursuant to Section 4.B. Regarding the column herein entitled "Plaintiff Subdivision Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the California Subdivision Funds received, pursuant to Section 4.C. Regarding the column herein entitled "Weighted Allocation Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the combined and weighted allocation of the Abatement Percentage and the Plaintiff Subdivision Percentage.

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APPENDIX 1

			100.000%	100.000%	100.000%
Participating Subdivision Classification	**Participating Subdivision**	**County**	**Abatement Percentage**	**Plaintiff Subdivision Percentage**	**Weighted Allocation Percentage**
County	***Alameda County***	Alameda	2.332%	2.853%	**2.4237952%**
City	Alameda	Alameda	0.069%		**0.0570162%**
City	Albany	Alameda	0.013%		**0.0107768%**
City	Berkeley	Alameda	0.152%		**0.1249656%**
City	Dublin	Alameda	0.033%	0.040%	**0.0338810%**
City	Emeryville	Alameda	0.023%		**0.0185765%**
City	Fremont	Alameda	0.108%		**0.0888576%**
City	Hayward	Alameda	0.117%		**0.0966218%**
City	Livermore	Alameda	0.054%		**0.0446740%**
City	Newark	Alameda	0.026%		**0.0217626%**
City	Oakland	Alameda	0.486%	0.595%	**0.5055601%**
City	Piedmont	Alameda	0.014%		**0.0114064%**
City	Pleasanton	Alameda	0.067%		**0.0554547%**
City	San Leandro	Alameda	0.039%		**0.0321267%**
City	Union City	Alameda	0.043%		**0.0352484%**
County	***Amador County***	Amador	0.226%	0.277%	**0.2349885%**
County	***Butte County***	Butte	1.615%	1.975%	**1.6783178%**
City	Chico	Butte	0.216%	0.264%	**0.2246499%**
City	Oroville	Butte	0.079%		**0.0646595%**
County	***Calaveras County***	Calaveras	0.226%	0.277%	**0.2351644%**
County	***Colusa County***	Colusa	0.059%		**0.0489221%**
County	***Contra Costa County***	Contra Costa	2.102%	2.571%	**2.1844585%**
City	Antioch	Contra Costa	0.037%		**0.0301879%**
City	Brentwood	Contra Costa	0.026%		**0.0215339%**
City	Clayton	Contra Costa	0.002%		**0.0018060%**
City	Concord	Contra Costa	0.055%		**0.0456676%**
City	Danville	Contra Costa	0.010%		**0.0082255%**
City	El Cerrito	Contra Costa	0.023%		**0.0189024%**
City	Hercules	Contra Costa	0.010%		**0.0078273%**
Participating Subdivision Classification	**Participating Subdivision**	**County**	**Abatement Percentage**	**Plaintiff Subdivision Percentage**	**Weighted Allocation Percentage**
City	Lafayette	Contra Costa	0.006%		**0.0046030%**



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City	Martinez	Contra Costa	0.012%		**0.0098593%**
City	Moraga	Contra Costa	0.004%		**0.0031007%**
City	Oakley	Contra Costa	0.010%		**0.0079416%**
City	Orinda	Contra Costa	0.005%		**0.0038157%**
City	Pinole	Contra Costa	0.013%		**0.0110909%**
City	Pittsburg	Contra Costa	0.053%		**0.0436369%**
City	Pleasant Hill	Contra Costa	0.013%		**0.0106309%**
City	Richmond	Contra Costa	0.146%		**0.1201444%**
City	San Pablo	Contra Costa	0.018%		**0.0148843%**
City	San Ramon	Contra Costa	0.021%		**0.0176459%**
City	Walnut Creek	Contra Costa	0.026%		**0.0212132%**
County	***Del Norte County***	Del Norte	0.114%	0.140%	**0.1189608%**
County	***El Dorado County***	El Dorado	0.768%	0.939%	**0.7980034%**
City	Placerville	El Dorado	0.015%		**0.0127642%**
City	South Lake Tahoe	El Dorado	0.081%		**0.0665456%**
County	***Fresno County***	Fresno	1.895%	2.318%	**1.9693410%**
City	Clovis	Fresno	0.065%		**0.0536211%**
City	Coalinga	Fresno	0.012%		**0.0098554%**
City	Fresno	Fresno	0.397%		**0.3270605%**
City	Kerman	Fresno	0.005%		**0.0042534%**
City	Kingsburg	Fresno	0.008%		**0.0066167%**
City	Mendota	Fresno	0.002%		**0.0019387%**
City	Orange Cove	Fresno	0.004%		**0.0035607%**
City	Parlier	Fresno	0.008%		**0.0069755%**
City	Reedley	Fresno	0.012%		**0.0098804%**
City	Sanger	Fresno	0.018%		**0.0146135%**
City	Selma	Fresno	0.015%		**0.0127537%**
County	***Glenn County***	Glenn	0.107%	0.131%	**0.1116978%**
County	***Humboldt County***	Humboldt	1.030%	1.260%	**1.0703185%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Arcata	Humboldt	0.054%		**0.0447660%**
City	Eureka	Humboldt	0.117%	0.143%	**0.1216284%**
City	Fortuna	Humboldt	0.032%		**0.0266837%**
County	***Imperial County***	Imperial	0.258%	0.315%	**0.2679006%**

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City	Brawley	Imperial	0.011%		**0.0087986%**
City	Calexico	Imperial	0.019%		**0.0152799%**
City	El Centro	Imperial	0.158%		**0.1302522%**
City	Imperial	Imperial	0.006%		**0.0048791%**
County	***Inyo County***	Inyo	0.073%	0.089%	**0.0754413%**
County	***Kern County***	Kern	2.517%	3.079%	**2.6159145%**
City	Arvin	Kern	0.006%		**0.0046425%**
City	Bakersfield	Kern	0.212%		**0.1747198%**
City	California City	Kern	0.009%		**0.0070820%**
City	Delano	Kern	0.030%		**0.0249316%**
City	McFarland	Kern	0.003%		**0.0025644%**
City	Ridgecrest	Kern	0.015%		**0.0120938%**
City	Shafter	Kern	0.013%		**0.0103417%**
City	Tehachapi	Kern	0.009%		**0.0073580%**
City	Wasco	Kern	0.008%		**0.0069861%**
County	***Kings County***	Kings	0.293%		**0.2413469%**
City	Avenal	Kings	0.007%		**0.0056335%**
City	Corcoran	Kings	0.013%		**0.0107032%**
City	Hanford	Kings	0.027%		**0.0226038%**
City	Lemoore	Kings	0.016%		**0.0131900%**
County	***Lake County***	Lake	0.795%		**0.6545389%**
City	Clearlake	Lake	0.041%	0.050%	**0.0426253%**
City	Lakeport	Lake	0.021%	0.026%	**0.0222964%**
County	***Lassen County***	Lassen	0.319%	0.391%	**0.3320610%**
City	Susanville	Lassen	0.027%		**0.0219295%**
County	***Los Angeles County***	Los Angeles	13.896%	16.999%	**14.4437559%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Agoura Hills	Los Angeles	0.005%		**0.0040024%**
City	Alhambra	Los Angeles	0.042%		**0.0343309%**
City	Arcadia	Los Angeles	0.033%		**0.0267718%**
City	Artesia	Los Angeles	0.001%		**0.0005100%**
City	Azusa	Los Angeles	0.026%		**0.0210857%**
City	Baldwin Park	Los Angeles	0.027%		**0.0218520%**
City	Bell	Los Angeles	0.008%		**0.0068783%**



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City	Bellflower	Los Angeles	0.002%		**0.0014485%**
City	Bell Gardens	Los Angeles	0.014%		**0.0114301%**
City	Beverly Hills	Los Angeles	0.065%		**0.0534897%**
City	Burbank	Los Angeles	0.100%		**0.0823132%**
City	Calabasas	Los Angeles	0.006%		**0.0048948%**
City	Carson	Los Angeles	0.019%		**0.0159805%**
City	Cerritos	Los Angeles	0.005%		**0.0039682%**
City	Claremont	Los Angeles	0.010%		**0.0082584%**
City	Commerce	Los Angeles	0.000%		**0.0002971%**
City	Compton	Los Angeles	0.044%		**0.0361882%**
City	Covina	Los Angeles	0.028%		**0.0229127%**
City	Cudahy	Los Angeles	0.001%		**0.0006020%**
City	Culver City	Los Angeles	0.055%		**0.0449894%**
City	Diamond Bar	Los Angeles	0.001%		**0.0006993%**
City	Downey	Los Angeles	0.052%		**0.0429994%**
City	Duarte	Los Angeles	0.003%		**0.0027261%**
City	El Monte	Los Angeles	0.031%	0.038%	**0.0318985%**
City	El Segundo	Los Angeles	0.033%		**0.0268020%**
City	Gardena	Los Angeles	0.034%		**0.0278088%**
City	Glendale	Los Angeles	0.166%		**0.1366586%**
City	Glendora	Los Angeles	0.016%		**0.0134411%**
City	Hawaiian Gardens	Los Angeles	0.005%		**0.0040549%**
City	Hawthorne	Los Angeles	0.050%		**0.0407833%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Hermosa Beach	Los Angeles	0.018%		**0.0145307%**
City	Huntington Park	Los Angeles	0.023%		**0.0190667%**
City	Inglewood	Los Angeles	0.059%		**0.0489195%**
City	La Cañada Flintridge	Los Angeles	0.003%		**0.0025565%**
City	Lakewood	Los Angeles	0.005%		**0.0039971%**
City	La Mirada	Los Angeles	0.010%		**0.0081572%**
City	Lancaster	Los Angeles	0.045%		**0.0369689%**
City	La Puente	Los Angeles	0.002%		**0.0012999%**
City	La Verne	Los Angeles	0.024%		**0.0194190%**
City	Lawndale	Los Angeles	0.002%		**0.0017731%**



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City	Lomita	Los Angeles	0.004%		**0.0031940%**
City	Long Beach	Los Angeles	0.439%		**0.3614151%**
City	Los Angeles	Los Angeles	2.715%	3.321%	**2.8218811%**
City	Lynwood	Los Angeles	0.016%		**0.0134345%**
City	Malibu	Los Angeles	0.002%		**0.0019269%**
City	Manhattan Beach	Los Angeles	0.032%		**0.0260686%**
City	Maywood	Los Angeles	0.004%		**0.0035528%**
City	Monrovia	Los Angeles	0.031%		**0.0254455%**
City	Montebello	Los Angeles	0.030%		**0.0250670%**
City	Monterey Park	Los Angeles	0.031%		**0.0256677%**
City	Norwalk	Los Angeles	0.031%		**0.0258228%**
City	Palmdale	Los Angeles	0.046%		**0.0375827%**
City	Palos Verdes Estates	Los Angeles	0.006%		**0.0053102%**
City	Paramount	Los Angeles	0.011%		**0.0091483%**
City	Pasadena	Los Angeles	0.146%		**0.1200524%**
City	Pico Rivera	Los Angeles	0.022%		**0.0183333%**
City	Pomona	Los Angeles	0.111%		**0.0911933%**
City	Rancho Palos Verdes	Los Angeles	0.002%		**0.0012645%**
City	Redondo Beach	Los Angeles	0.062%		**0.0506992%**
City	Rosemead	Los Angeles	0.003%		**0.0028260%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	San Dimas	Los Angeles	0.003%		**0.0022016%**
City	San Fernando	Los Angeles	0.013%		**0.0104837%**
City	San Gabriel	Los Angeles	0.018%		**0.0147726%**
City	San Marino	Los Angeles	0.009%		**0.0073791%**
City	Santa Clarita	Los Angeles	0.022%		**0.0178167%**
City	Santa Fe Springs	Los Angeles	0.031%		**0.0257531%**
City	Santa Monica	Los Angeles	0.158%		**0.1298513%**
City	Sierra Madre	Los Angeles	0.006%		**0.0048646%**
City	Signal Hill	Los Angeles	0.010%		**0.0084884%**
City	South El Monte	Los Angeles	0.005%		**0.0039603%**
City	South Gate	Los Angeles	0.020%		**0.0166272%**
City	South Pasadena	Los Angeles	0.012%		**0.0095334%**
City	Temple City	Los Angeles	0.005%		**0.0039498%**

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City	Torrance	Los Angeles	0.112%		**0.0919820%**
City	Walnut	Los Angeles	0.006%		**0.0047305%**
City	West Covina	Los Angeles	0.049%		**0.0404521%**
City	West Hollywood	Los Angeles	0.013%		**0.0108517%**
City	Whittier	Los Angeles	0.032%		**0.0260581%**
County	***Madera County***	Madera	0.349%	0.427%	**0.3630669%**
City	Chowchilla	Madera	0.012%		**0.0097332%**
City	Madera	Madera	0.039%		**0.0318441%**
County	***Marin County***	Marin	0.564%	0.690%	**0.5861325%**
City	Larkspur	Marin	0.015%		**0.0124697%**
City	Mill Valley	Marin	0.020%		**0.0168401%**
City	Novato	Marin	0.028%		**0.0229824%**
City	San Anselmo	Marin	0.009%		**0.0078062%**
City	San Rafael	Marin	0.089%		**0.0729823%**
County	***Mariposa County***	Mariposa	0.084%	0.103%	**0.0876131%**
County	***Mendocino County***	Mendocino	0.439%	0.536%	**0.4558394%**
City	Ukiah	Mendocino	0.039%		**0.0317153%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
County	***Merced County***	Merced	0.551%	0.674%	**0.5724262%**
City	Atwater	Merced	0.024%		**0.0195846%**
City	Livingston	Merced	0.006%		**0.0045873%**
City	Los Banos	Merced	0.020%		**0.0165142%**
City	Merced	Merced	0.061%		**0.0500762%**
County	***Modoc County***	Modoc	0.065%	0.080%	**0.0678250%**
County	***Mono County***	Mono	0.023%	0.029%	**0.0242606%**
County	***Monterey County***	Monterey	0.908%	1.111%	**0.9437083%**
City	Greenfield	Monterey	0.006%		**0.0050552%**
City	King City	Monterey	0.005%		**0.0037355%**
City	Marina	Monterey	0.017%		**0.0144098%**
City	Monterey	Monterey	0.041%		**0.0336540%**
City	Pacific Grove	Monterey	0.009%		**0.0074842%**
City	Salinas	Monterey	0.094%		**0.0776576%**
City	Seaside	Monterey	0.023%		**0.0191772%**
City	Soledad	Monterey	0.007%		**0.0060870%**

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County	***Napa County***	Napa	0.288%	0.352%	**0.2994325%**
City	American Canyon	Napa	0.017%		**0.0136869%**
City	Napa	Napa	0.078%		**0.0642783%**
County	***Nevada County***	Nevada	0.441%	0.539%	**0.4579827%**
City	Grass Valley	Nevada	0.024%		**0.0197805%**
City	Truckee	Nevada	0.003%		**0.0023843%**
County	***Orange County***	Orange	4.364%	5.339%	**4.5363576%**
City	Aliso Viejo	Orange	0.014%		**0.0113841%**
City	Anaheim	Orange	0.554%	0.678%	**0.5759282%**
City	Brea	Orange	0.086%		**0.0708897%**
City	Buena Park	Orange	0.087%		**0.0714352%**
City	Costa Mesa	Orange	0.124%	0.152%	**0.1288366%**
City	Cypress	Orange	0.033%		**0.0271937%**
City	Dana Point	Orange	0.001%		**0.0005560%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Fountain Valley	Orange	0.055%		**0.0455980%**
City	Fullerton	Orange	0.137%	0.168%	**0.1425744%**
City	Garden Grove	Orange	0.213%		**0.1752482%**
City	Huntington Beach	Orange	0.247%	0.302%	**0.2568420%**
City	Irvine	Orange	0.139%	0.170%	**0.1442350%**
City	Laguna Beach	Orange	0.047%	0.058%	**0.0493043%**
City	Laguna Hills	Orange	0.014%		**0.0115457%**
City	Laguna Niguel	Orange	0.001%		**0.0007071%**
City	Laguna Woods	Orange	0.001%		**0.0006546%**
City	La Habra	Orange	0.060%	0.073%	**0.0621049%**
City	Lake Forest	Orange	0.012%		**0.0101249%**
City	La Palma	Orange	0.012%		**0.0095439%**
City	Los Alamitos	Orange	0.008%		**0.0069190%**
City	Mission Viejo	Orange	0.014%		**0.0117560%**
City	Newport Beach	Orange	0.179%		**0.1470134%**
City	Orange	Orange	0.150%		**0.1231320%**
City	Placentia	Orange	0.029%	0.035%	**0.0298912%**
City	Rancho Santa Margarita	Orange	0.001%		**0.0006296%**
City	San Clemente	Orange	0.008%	0.010%	**0.0086083%**



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City	San Juan Capistrano	Orange	0.008%		**0.0065510%**
City	Santa Ana	Orange	0.502%	0.614%	**0.5213866%**
City	Seal Beach	Orange	0.020%		**0.0165891%**
City	Stanton	Orange	0.035%		**0.0291955%**
City	Tustin	Orange	0.073%		**0.0600341%**
City	Westminster	Orange	0.104%	0.127%	**0.1082721%**
City	Yorba Linda	Orange	0.044%		**0.0362223%**
County	***Placer County***	Placer	1.045%	1.278%	**1.0861002%**
City	Auburn	Placer	0.017%		**0.0141114%**
City	Lincoln	Placer	0.031%		**0.0255599%**
City	Rocklin	Placer	0.076%		**0.0625485%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Roseville	Placer	0.196%		**0.1616559%**
County	***Plumas County***	Plumas	0.205%	0.251%	**0.2128729%**
County	***Riverside County***	Riverside	4.534%	5.547%	**4.7128296%**
City	Banning	Riverside	0.017%		**0.0143848%**
City	Beaumont	Riverside	0.021%		**0.0171135%**
City	Blythe	Riverside	0.012%		**0.0096714%**
City	Canyon Lake	Riverside	0.000%		**0.0001761%**
City	Cathedral City	Riverside	0.067%		**0.0553614%**
City	Coachella	Riverside	0.021%		**0.0173054%**
City	Corona	Riverside	0.147%		**0.1207083%**
City	Desert Hot Springs	Riverside	0.024%		**0.0200433%**
City	Eastvale	Riverside	0.000%		**0.0002747%**
City	Hemet	Riverside	0.051%		**0.0421792%**
City	Indio	Riverside	0.056%		**0.0457794%**
City	Jurupa Valley	Riverside	0.001%		**0.0008991%**
City	Lake Elsinore	Riverside	0.021%		**0.0172949%**
City	La Quinta	Riverside	0.063%		**0.0516732%**
City	Menifee	Riverside	0.032%		**0.0260909%**
City	Moreno Valley	Riverside	0.137%		**0.1130348%**
City	Murrieta	Riverside	0.048%	0.059%	**0.0497423%**
City	Norco	Riverside	0.016%		**0.0134542%**
City	Palm Desert	Riverside	0.083%		**0.0682465%**

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City	Palm Springs	Riverside	0.076%		**0.0629862%**
City	Perris	Riverside	0.009%		**0.0076774%**
City	Rancho Mirage	Riverside	0.052%		**0.0431098%**
City	Riverside	Riverside	0.268%		**0.2206279%**
City	San Jacinto	Riverside	0.010%		**0.0085936%**
City	Temecula	Riverside	0.022%		**0.0180086%**
City	Wildomar	Riverside	0.008%		**0.0062500%**
County	***Sacramento County***	Sacramento	3.797%	4.645%	**3.9465887%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Citrus Heights	Sacramento	0.057%		**0.0465312%**
City	Elk Grove	Sacramento	0.130%		**0.1066994%**
City	Folsom	Sacramento	0.108%		**0.0890850%**
City	Galt	Sacramento	0.017%		**0.0143704%**
City	Rancho Cordova	Sacramento	0.008%		**0.0067679%**
City	Sacramento	Sacramento	0.721%	0.882%	**0.7496530%**
County	***San Benito County***	San Benito	0.106%	0.130%	**0.1101417%**
City	Hollister	San Benito	0.027%		**0.0225355%**
County	***San Bernardino County***	San Bernardino	3.259%	3.987%	**3.3878124%**
City	Adelanto	San Bernardino	0.008%		**0.0066640%**
City	Apple Valley	San Bernardino	0.025%		**0.0207360%**
City	Barstow	San Bernardino	0.015%		**0.0122056%**
City	Chino	San Bernardino	0.064%		**0.0525893%**
City	Chino Hills	San Bernardino	0.001%		**0.0006388%**
City	Colton	San Bernardino	0.031%		**0.0253443%**
City	Fontana	San Bernardino	0.112%		**0.0920543%**
City	Grand Terrace	San Bernardino	0.006%		**0.0051051%**
City	Hesperia	San Bernardino	0.035%		**0.0291522%**
City	Highland	San Bernardino	0.004%		**0.0029061%**
City	Loma Linda	San Bernardino	0.009%		**0.0071188%**
City	Montclair	San Bernardino	0.039%		**0.0322108%**
City	Ontario	San Bernardino	0.179%		**0.1472934%**
City	Rancho Cucamonga	San Bernardino	0.084%		**0.0689431%**
City	Redlands	San Bernardino	0.057%		**0.0469150%**
City	Rialto	San Bernardino	0.073%		**0.0603206%**

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City	San Bernardino	San Bernardino	0.178%		**0.1461880%**
City	Twentynine Palms	San Bernardino	0.002%		**0.0012605%**
City	Upland	San Bernardino	0.052%		**0.0424460%**
City	Victorville	San Bernardino	0.033%		**0.0269400%**
City	Yucaipa	San Bernardino	0.016%		**0.0128772%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Yucca Valley	San Bernardino	0.003%		**0.0021228%**
County	***San Diego County***	San Diego	5.706%	6.980%	**5.9309748%**
City	Carlsbad	San Diego	0.128%		**0.1050485%**
City	Chula Vista	San Diego	0.189%	0.231%	**0.1961456%**
City	Coronado	San Diego	0.044%		**0.0359095%**
City	El Cajon	San Diego	0.113%		**0.0933582%**
City	Encinitas	San Diego	0.061%	0.074%	**0.0630289%**
City	Escondido	San Diego	0.145%		**0.1192204%**
City	Imperial Beach	San Diego	0.014%		**0.0118283%**
City	La Mesa	San Diego	0.055%	0.068%	**0.0575593%**
City	Lemon Grove	San Diego	0.022%		**0.0183911%**
City	National City	San Diego	0.080%		**0.0656808%**
City	Oceanside	San Diego	0.213%		**0.1753428%**
City	Poway	San Diego	0.062%		**0.0511040%**
City	San Diego	San Diego	1.975%	2.416%	**2.0531169%**
City	San Marcos	San Diego	0.089%		**0.0733897%**
City	Santee	San Diego	0.033%		**0.0268401%**
City	Solana Beach	San Diego	0.017%		**0.0138564%**
City	Vista	San Diego	0.052%		**0.0425144%**
Consolidated	***San Francisco***	San Francisco	3.026%	3.702%	**3.1457169%**
County	***San Joaquin County***	San Joaquin	1.680%	2.055%	**1.7460399%**
City	Lathrop	San Joaquin	0.009%		**0.0075394%**
City	Lodi	San Joaquin	0.053%		**0.0439484%**
City	Manteca	San Joaquin	0.054%		**0.0443454%**
City	Ripon	San Joaquin	0.013%		**0.0104219%**
City	Stockton	San Joaquin	0.313%	0.383%	**0.3256176%**
City	Tracy	San Joaquin	0.084%		**0.0692047%**
County	***San Luis Obispo County***	San Luis Obispo	0.816%	0.999%	**0.8484126%**

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City	Arroyo Grande	San Luis Obispo	0.024%		**0.0199053%**
City	Atascadero	San Luis Obispo	0.029%		**0.0240680%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	El Paso de Robles (Paso Robles)	San Luis Obispo	0.043%		**0.0353456%**
City	Grover Beach	San Luis Obispo	0.017%		**0.0137881%**
City	Morro Bay	San Luis Obispo	0.020%		**0.0160922%**
City	San Luis Obispo	San Luis Obispo	0.077%		**0.0637841%**
County	***San Mateo County***	San Mateo	1.074%	1.313%	**1.1159599%**
City	Belmont	San Mateo	0.021%		**0.0169860%**
City	Burlingame	San Mateo	0.019%		**0.0152537%**
City	Daly City	San Mateo	0.044%		**0.0363880%**
City	East Palo Alto	San Mateo	0.013%		**0.0103982%**
City	Foster City	San Mateo	0.020%		**0.0166101%**
City	Half Moon Bay	San Mateo	0.004%		**0.0031638%**
City	Hillsborough	San Mateo	0.013%		**0.0110029%**
City	Menlo Park	San Mateo	0.015%		**0.0126209%**
City	Millbrae	San Mateo	0.013%		**0.0105836%**
City	Pacifica	San Mateo	0.016%		**0.0130625%**
City	Redwood City	San Mateo	0.056%		**0.0463511%**
City	San Bruno	San Mateo	0.021%		**0.0172161%**
City	San Carlos	San Mateo	0.013%		**0.0108885%**
City	San Mateo	San Mateo	0.052%		**0.0425841%**
City	South San Francisco	San Mateo	0.043%		**0.0353943%**
County	***Santa Barbara County***	Santa Barbara	1.132%	1.385%	**1.1768968%**
City	Carpinteria	Santa Barbara	0.001%		**0.0008938%**
City	Goleta	Santa Barbara	0.004%		**0.0028969%**
City	Lompoc	Santa Barbara	0.047%		**0.0389379%**
City	Santa Barbara	Santa Barbara	0.122%		**0.1004559%**
City	Santa Maria	Santa Barbara	0.058%		**0.0479179%**
County	***Santa Clara County***	Santa Clara	2.404%	2.941%	**2.4987553%**
City	Campbell	Santa Clara	0.014%		**0.0112566%**
City	Cupertino	Santa Clara	0.008%		**0.0066824%**
City	Gilroy	Santa Clara	0.025%		**0.0202891%**



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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Los Altos	Santa Clara	0.013%		**0.0103338%**
City	Los Gatos	Santa Clara	0.013%		**0.0103220%**
City	Milpitas	Santa Clara	0.036%		**0.0298120%**
City	Morgan Hill	Santa Clara	0.015%		**0.0124619%**
City	Mountain View	Santa Clara	0.041%		**0.0334608%**
City	Palo Alto	Santa Clara	0.039%		**0.0323080%**
City	San Jose	Santa Clara	0.294%	0.360%	**0.3054960%**
City	Santa Clara	Santa Clara	0.067%		**0.0549723%**
City	Saratoga	Santa Clara	0.004%		**0.0034161%**
City	Sunnyvale	Santa Clara	0.053%		**0.0434069%**
County	***Santa Cruz County***	Santa Cruz	0.783%	0.957%	**0.8135396%**
City	Capitola	Santa Cruz	0.020%		**0.0168191%**
City	Santa Cruz	Santa Cruz	0.143%		**0.1180348%**
City	Scotts Valley	Santa Cruz	0.015%		**0.0126525%**
City	Watsonville	Santa Cruz	0.063%		**0.0520136%**
County	***Shasta County***	Shasta	1.095%	1.339%	**1.1380191%**
City	Anderson	Shasta	0.024%		**0.0198896%**
City	Redding	Shasta	0.284%		**0.2334841%**
City	Shasta Lake	Shasta	0.004%		**0.0031993%**
County	***Siskiyou County***	Siskiyou	0.228%	0.279%	**0.2373393%**
County	***Solano County***	Solano	0.760%		**0.6260795%**
City	Benicia	Solano	0.031%		**0.0253903%**
City	Dixon	Solano	0.016%		**0.0130849%**
City	Fairfield	Solano	0.109%		**0.0897317%**
City	Suisun City	Solano	0.021%		**0.0176183%**
City	Vacaville	Solano	0.119%		**0.0976497%**
City	Vallejo	Solano	0.167%		**0.1373644%**
County	***Sonoma County***	Sonoma	1.218%	1.490%	**1.2661290%**
City	Healdsburg	Sonoma	0.032%		**0.0266929%**
City	Petaluma	Sonoma	0.081%		**0.0667507%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage



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City	Rohnert Park	Sonoma	0.041%		**0.0340759%**
City	Santa Rosa	Sonoma	0.184%		**0.1519070%**
City	Sonoma	Sonoma	0.022%		**0.0183438%**
City	Windsor	Sonoma	0.016%		**0.0129298%**
County	***Stanislaus County***	Stanislaus	1.722%		**1.4182273%**
City	Ceres	Stanislaus	0.041%		**0.0340260%**
City	Modesto	Stanislaus	0.217%		**0.1788759%**
City	Newman	Stanislaus	0.006%		**0.0046964%**
City	Oakdale	Stanislaus	0.018%		**0.0145531%**
City	Patterson	Stanislaus	0.015%		**0.0126590%**
City	Riverbank	Stanislaus	0.010%		**0.0085699%**
City	Turlock	Stanislaus	0.065%		**0.0531966%**
County	***Sutter County***	Sutter	0.306%	0.374%	**0.3179548%**
City	Yuba City	Sutter	0.074%		**0.0606242%**
County	***Tehama County***	Tehama	0.213%	0.261%	**0.2216654%**
City	Red Bluff	Tehama	0.014%		**0.0117771%**
County	***Trinity County***	Trinity	0.082%	0.101%	**0.0855476%**
County	***Tulare County***	Tulare	0.809%	0.990%	**0.8410949%**
City	Dinuba	Tulare	0.014%		**0.0116929%**
City	Exeter	Tulare	0.004%		**0.0032479%**
City	Farmersville	Tulare	0.003%		**0.0027879%**
City	Lindsay	Tulare	0.007%		**0.0057111%**
City	Porterville	Tulare	0.021%		**0.0171845%**
City	Tulare	Tulare	0.037%		**0.0302273%**
City	Visalia	Tulare	0.066%		**0.0545872%**
County	***Tuolumne County***	Tuolumne	0.486%	0.594%	**0.5047621%**
County	***Ventura County***	Ventura	2.192%	2.681%	**2.2781201%**
City	Camarillo	Ventura	0.002%		**0.0012815%**
City	Fillmore	Ventura	0.002%		**0.0020294%**
City	Moorpark	Ventura	0.008%		**0.0067337%**

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Oxnard	Ventura	0.156%	0.190%	**0.1617338%**
City	Port Hueneme	Ventura	0.021%		**0.0174145%**
City	San Buenaventura (Ventura)	Ventura	0.085%		**0.0702181%**



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City	Santa Paula	Ventura	0.014%		**0.0119072%**
City	Simi Valley	Ventura	0.065%		**0.0533043%**
City	Thousand Oaks	Ventura	0.022%		**0.0179902%**
County	***Yolo County***	Yolo	0.357%	0.437%	**0.3713319%**
City	Davis	Yolo	0.055%		**0.0451747%**
City	West Sacramento	Yolo	0.066%		**0.0544321%**
City	Woodland	Yolo	0.058%		**0.0477904%**
County	***Yuba County***	Yuba	0.214%	0.262%	**0.2225679%**
City	Marysville	Yuba	0.014%		**0.0112079%**

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APPENDIX 2

Cost Reimbursement Procedure

1. Additional defined terms:

a) *Costs* means the reasonable amounts paid for the attorney and other City Attorney and County Counsel staff time for individuals employed by a Plaintiff Subdivision at the contractual rate, inclusive of benefits and overhead, together with amounts paid for court reporters, experts, copying, electronic research, travel, vendors, and the like, which were not previously reimbursed and which were paid or incurred (i) prior to December 31, 2022 in litigation against any Opioid Defendant and/or (ii) in negotiating and drafting any CA Allocation Agreement(s) concerning a settlement with any Opioid Defendant(s). *Costs* does not include attorneys' fees, costs, or expenses incurred by private contingency fee counsel. No part of the CA Abatement Accounts Fund will be used to reimburse Costs.

b) *First Claims Date* means October 1, 2023 or when all applications for reimbursement of Costs, in whole or in part, from funds available under Section IX and Exhibit R of the Walgreens Settlement Agreement, Section XIV and Exhibit R of the Teva Settlement Agreement, Section XIII and Exhibit R of the Allergan Settlement Agreement, Section X and Exhibit R of the Distributor Settlement Agreement, Section XI and Exhibit R of the Janssen Settlement Agreement, Section X and Exhibit R of the CVS Settlement Agreement, or Section IX and Exhibit R of the Walmart Settlement Agreement, have been finally determined under the provisions of those agreements, whichever comes first.

c) *Special Master* means a retired judicial officer or former public lawyer, not presently employed or retained by a Plaintiff Subdivision, who will aggregate, review, and determine the reasonable Costs to be awarded to each Plaintiff Subdivision that submits a claim for reimbursement of Costs. The Special Master will be selected by a majority vote of the votes cast by Plaintiff Subdivisions, with each such subdivision having one vote.

d) *Plaintiff Subdivision Committee* means the committee of Plaintiff Subdivisions that will review and approve the invoices submitted by the Special Master reflecting his or her reasonable time and expenses.

2. Cost Reimbursement to Plaintiff Subdivision

a) Purpose. Substantial resources have been expended to hold Opioid Defendants accountable for creating and profiting from the opioid crisis, and this effort has been a significant catalyst in creating National Opioid Settlements with various manufacturers, distributors, and chain pharmacies.

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b) Claims Procedure.

i. If a Plaintiff Subdivision is eligible to seek reimbursement of Costs, in whole or in part, from funds available under Section IX and Exhibit R of the Kroger Settlement Agreement, Section IX and Exhibit R of the Walgreens Settlement Agreement, Section XIV and Exhibit R of the Teva Settlement Agreement, Section XIII and Exhibit R of the Allergan Settlement Agreement, Section X and Exhibit R of the CVS Settlement Agreement, Section IX and Exhibit R of the Walmart Settlement Agreement, Section X or Exhibit R of the Distributor Settlement Agreement, or Section XI or Exhibit R of the Janssen Settlement Agreement, it must first make a timely application for reimbursement from such funds. To allow sufficient time for determination of those applications, no claim for Costs to the CA Subdivision Fund under this Agreement may be made before the First Claims Date.

ii. A Plaintiff Subdivision that wishes to be reimbursed from the CA Subdivision Fund must submit a claim to the Special Master no later than forty-five (45) days after the First Claims Date. The Special Master will then compile and redistribute the aggregated claim totals for each Plaintiff Subdivision via email to representatives of all the Plaintiff Subdivisions. A claim for attorney and staff time must list, for each attorney or staff member included in the claim, the following information: name, title, total hours claimed, hourly rate (including, if sought, benefits and share of overhead), and narrative summarizing the general nature of the work performed by the attorney or staff member. For reimbursement of "hard" costs, the subdivision may aggregate across a category (e.g., total for travel costs). It is the intention of the Plaintiff Subdivisions that submission of documents related to reimbursement of Costs does not waive any attorney-client privilege or exemptions to the California Public Records Act.

iii. The Special Master may request, at his or her sole option, additional documents or details to assist in the final award of Costs.

iv. The Special Master will review claims for reasonableness and will notify each Plaintiff Subdivision of the final determination of its claim, and will provide a list of all final awards to all Plaintiff Subdivisions by email or, upon request, via First Class U.S. Mail. Any Plaintiff Subdivision may ask the Special Master to reconsider any final award within twenty-one (21) days. The Special Master will make a final determination on any such reconsideration request within thirty (30) days of receipt.

v. Any decision of the Special Master is final and binding, and will be considered under the California Arbitration Act, Code of Civil Procedure section 1280 et seq. as a final arbitration award. Nothing in this agreement is intended to expand the scope of judicial review of the final award for errors of fact or law, and the Parties agree that they may only seek to vacate the award if clear and convincing evidence demonstrates one of the factors set forth in Code of Civil Procedure, section 1286.2, subdivision (a). Plaintiff Subdivisions will have fourteen (14) days after all final awards are made, together with any final determination of a request for



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reconsideration, to seek review in the Superior Court of California, pursuant to Code of Civil Procedure, section 1285, where the State has filed its Consent Judgment.

vi. The Special Master will prepare a report of Costs that includes his or her fees and expenses at least ninety (90) days before the Payment Date for each Annual Payment. The Special Master's preparation of a report of Costs does not discharge a Plaintiff Subdivision's reporting requirement under Section V(B)(2) of the Kroger Settlement Agreement.

vii. A member of the Plaintiff Subdivision Committee, which is a CA Participating Subdivision, will submit to the Settlement Fund Administrator and Kroger a report of the fees and expenses incurred by the Special Master pursuant to Section V(B)(2) of the Kroger Settlement Agreement.

c) Claims Priority and Limitation.

i. The Special Master will submit invoices for compensation of reasonable fees and expenses to the Plaintiff Subdivision Committee no later than ninety (90) days prior to the Payment Date for each Annual Payment. The Plaintiff Subdivision Committee will promptly review and, if reasonable, approve the Special Master's invoice for compensation. The Plaintiff Subdivision Committee will submit approved invoices to the Settlement Fund Administrator for payment. The Special Master's approved invoices have priority and will be paid first from the CA Subdivision Fund before any award of Costs, subject to the limitation in Section 2.c.v below.

ii. Final Awards of Costs that do not exceed seventy-five thousand dollars ($75,000.00) will be paid next in priority after the Special Master's approved invoices.

iii. Final Awards of Costs in excess of seventy-five thousand dollars ($75,000.00) will be paid proportionally from the funds remaining in that year's Annual Payment.

iv. Any claim for Costs that is not paid in full will be allocated against the next year's distribution from the CA Subdivision Fund, until all approved claims for Costs are paid in full.

v. In no event will more than 50% of the total CA Subdivision Fund received in any year be used to pay Costs or the Special Master's approved invoices.

vi. In no event shall more than $28 million of the total CA Subdivision Funds paid pursuant to the Kroger Settlement Agreement, Walgreens Settlement Agreement, Teva Settlement Agreement, Allergan Settlement Agreement, Distributor Settlement Agreement, CVS Settlement Agreement, Janssen Settlement Agreement, and the Walmart Settlement Agreement be used to pay Costs.

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d) Collateral Source Payments and Third-Party Settlement.

i. In the event a Plaintiff Subdivision is awarded compensation, in whole or in part, by any source of funds created as a result of litigation against an Opioid Defendant for its reasonable Costs, it will reduce its claim for Costs from the CA Subdivision Fund by that amount. If a Plaintiff Subdivision has already received a final award of Costs from the CA Subdivision Fund, it will repay the fund up to the prior award of Costs via a payment to the Settlement Fund Administrator or notify the Settlement Fund Administrator that its allocation from the next and subsequent Annual Payments should be reduced accordingly. If the Plaintiff Subdivision is repaying any prior award of Costs, that repayment will occur as soon as is feasible after the Plaintiff Subdivision's receipt of Cost funds from the collateral source, but no more than 90 days after its receipt from the collateral source. The Settlement Fund Administrator will add any repaid Costs to the CA Subdivision Fund. Any Plaintiff Subdivision that has submitted for reimbursement to any national fund and has not received a final determination by the First Claims Date may request that the settlement administrator withhold some or all of its payment from the CA Subdivision Fund in order to avoid repayment.

ii. In the event a Plaintiff Subdivision reaches a monetary settlement or compromise against any Opioid Defendant outside of the National Opioid Settlement, the monetary portion of such settlement, net of fees paid to outside contingency fee counsel and of funds earmarked strictly for abatement, will be credited against its Costs and the subdivision will be ineligible to recover those credited Costs from the CA Subdivision Fund. Plaintiff Subdivisions negotiating monetary settlements or compromises against any Opioid Defendant outside of the National Opioid Settlement will negotiate for funds to repay any Costs it previously received from the CA Subdivision Fund or for Costs it otherwise might be eligible to claim from the CA Subdivision Fund. If such a settlement is paid after all final approved claims for Costs by all Plaintiff Subdivisions are satisfied in full, the settling subdivision will reimburse the CA Subdivision Fund in that amount by making payment to the Settlement Fund Administrator to add to the CA Subdivision Fund in a manner consistent with the repayments described in section 2.d.i above.

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APPENDIX 3

CALIFORNIA-SUBDIVISION BACKSTOP AGREEMENT

On August 6, 2021, Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Kroger Settlement and their counsel.

In light of the Order, and at the request of [SUBDIVISION], the [SUBDIVISION], its counsel [COUNSEL], and the California Attorney General, on behalf of the State of California, are entering into this California-Subdivision Backstop Agreement (Backstop Agreement).

[SUBDIVISION] and [COUNSEL] intend this Backstop Agreement to constitute a State Back-Stop Agreement as that term is used in the Order and in Exhibit R (Agreement on Attorneys' Fees, Costs, and Expenses) of the Kroger Settlement Agreement.

Pursuant to this Backstop Agreement, [SUBDIVISION] may, subject to the limitations of the Kroger Settlement Agreement and CA Kroger Allocation Agreement, as well as any other limitations imposed by law, use funds that it receives from the Kroger Settlement CA Subdivision Fund to pay a contingent fee to [COUNSEL]. Any such payment from [SUBDIVISION] to [COUNSEL], together with any contingency fees that [COUNSEL] may receive from the national Attorney Fee Fund, will not exceed a total contingency fee of [PERCENTAGE NOT TO EXCEED 15%] of the total gross recovery of [SUBDIVISION] from the Kroger Settlement.

[COUNSEL] certify that they first sought fees and costs from the Attorney Fee Fund created under the Kroger Settlement Agreement before seeking or accepting payment under this backstop agreement. [COUNSEL] further certify that they are not seeking and will not accept payment under this backstop agreement of any litigation fees or costs that have been reimbursed through prior settlements or judgments.

The Attorney General is executing this agreement solely because the definition of "State Back-Stop Agreement" in Exhibit R of the Kroger Settlement Agreement requires such agreements to be between "a Settling State" and private counsel for a participating subdivision. Neither the California Attorney General nor the State of California have any obligations under this Backstop Agreement, and this Backstop Agreement does not require the payment of any state funds to [SUBDIVISION], [COUNSEL], or any other party.

[DATE]	[SUBDIVISION SIGNATURE BLOCK]
[DATE]	[COUNSEL SIGNATURE BLOCK]
[DATE]	[ATTORNEY GENERAL SIGNATURE BLOCK]

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Weil, Gotshal & Manges LLP

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Washington, DC 20036
+1 202 682 7000 tel
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Chantale Fiebig
+1 (202) 682-7200
Chantale.Fiebig@weil.com

BY E-MAIL

March 28, 2024

David Jones
Supervising Deputy Attorney General
Healthcare Rights & Access Section
Department of Justice
1300 I Street
Sacramento, CA 95814
Phone: (916) 210-7861
Email: David.Jones@doj.ca.gov

Re: Kroger Opioids Settlement Agreement

Dear Mr. Jones:

This letter summarizes the agreement reached between Kroger and the State of California regarding the multistate Kroger Settlement Agreement dated March 22, 2024 regarding opioid claims by states and subdivisions (the "Multistate Kroger Settlement Agreement").

The Kroger Co. and all of its direct and indirect subsidiaries ("Kroger"), and the State of California, by and through its Attorney General Rob Bonta, have agreed to the following modification to the Multistate Kroger Settlement Agreement in its application to California. For the avoidance of doubt, the limited modification set forth below applies only to California and to no other state or territory.

The "Prescription Red Flag" described in Section IX(5)(a) of Exhibit P to the Multistate Kroger Settlement Agreement is modified in its entirety to read as follows:

> A Controlled Substance prescription fails to meet the requirements of law. For the sake of clarity, minor deficiencies in the patient's name, address, date of birth, or contact information are not a red flag if the pharmacist, in his or her professional judgment and usual course of practice, is able to resolve these deficiencies with the patient.

This limited California-specific modification was a necessary condition for California's decision to sign-on as a participating state to the Multistate Kroger Settlement Agreement.

For the avoidance of doubt, all other terms and provisions in the Multistate Kroger Settlement Agreement remain the same, including without limitation all "Prescription Red Flags" not specified above, all

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definitions, all release provisions, the eleven-year-payment schedule and all other terms and provisions of the payment schedule, and all other terms and provisions.

These terms and this letter shall be included in a stipulated judgment to be filed in a Superior Court in the State of California.

Sincerely,

Chantale Fiebig
Counsel for The Kroger Co.

SO AGREED BY AND ON BEHALF OF THE STATE OF CALIFORNIA:

Name: David A. Jones
Title: Supervising Deputy Attorney General
Date: March 29, 2024

Statement of Plaintiffs' Executive Committee

The below statement is on behalf of National Prescription Opiate Litigation MDL Plaintiffs' Executive Committee co-leads Jayne Conroy of Simmons Hanly Conroy; Paul T. Farrell Jr. of Farrell & Fuller Law LLC; and Joe Rice of Motley Rice LLC.

"This $1.2 billion agreement-in-principle is another step forward in holding each company that played a role in the opioid epidemic accountable and ensuring hard-hit communities are provided with much-needed resources. The agreement with Kroger, which is subject to final documentation expected to be completed within 30 days, is the first involving one of the smaller, regional supermarket pharmacies that still played a significant part in the opioid crisis. With many cases against regional pharmacy defendants still pending, we will continue to aggressively litigate these remaining cases.

"We encourage all eligible states and subdivisions to join us in this agreement to expedite the process of providing these life-saving resources where they are needed most. While the efforts of the law firms appointed five years ago to the opioid MDL leadership have thus far obtained over $51 billion for communities nationwide, our work is far from finished. Alongside community leaders, first responders, and others on the front lines of this crisis, we will continue to work to hold all those responsible for this epidemic fully accountable and obtain some measure of justice for its catastrophic effects."

Additional background: Dependent on participation by the 33 eligible states and the District of Columbia, the agreement-in-principle with Kroger totaling $1.2 billion will be paid out over eleven years after its effective date, with the first payment in December 2023.

SUBJECT: Authorization to Roll Unpaid Utility Accounts to the 2024-2025 Property Tax Rolls

SOURCE: Finance

COMMENT: Municipal Code Chapter 25, Section 8 provides that unpaid water bills may be added to the tax statement for said real property and collected in the same manner as real property taxes. Municipal Code Chapter 13, Section 14 (Article D) and Chapter 25, Section 37 provide that any unpaid charges for sewer rental or solid waste services, together with interest and penalties constitute a lien on the real property involved.

Staff has prepared a draft Resolution for the City Council's consideration, which would authorize the Tulare County Auditor to place the unpaid utility accounts on the property tax rolls.

RECOMMENDATION: That the City Council adopt the draft resolution authorizing the Tulare County Auditor to place unpaid utility accounts on the 2024-2025 property tax rolls for collection.

ATTACHMENTS:

1. Draft Resolution
2. Exhibit A - Unpaid Utilities
3. Municipal Code - Chapter 13, Section 14
4. Municipal Code - Chapter 25, Section 8
5. Municipal Code - Chapter 25, Section 37

Appropriated/Funded:

Review By:

Department Director:
Janie Rodriguez, Finance Director

Final Approver: Patrice Hildreth, City Manager

RESOLUTION NO. ___-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ORDERING THE PLACEMENT OF SPECIAL ASSESSMENT LIENS ON THE TULARE COUNTY TAX ROLLS FOR FISCAL YEAR 2024-2025

WHEREAS: The City of Porterville Municipal Code Section 13-14, Garbage and Refuse – Charges for Collection; Time and Manner of Payment, provides that the amount required to be paid, together with interest and penalty, constitutes a lien on all real property; and

WHEREAS: The City of Porterville Municipal Code Section 25-37, Collection of Sewer Rental; Charges to be Lien, provides that any unpaid charge for sewer rental or sewer rental penalties or interest may be placed as a lien on the real property involved; and

WHEREAS: The City of Porterville Municipal Code Section 25-8, Guarantee of Payment of Water Bills by Property Owners, provides that unpaid water bills may be a lien on said property and the amount of said unpaid water bill may be added to the tax statement for said real property and collected in the same manner as real property taxes; and

WHEREAS: The Porterville City Council, having duly received and considered evidence and documentation concerning the delinquent accounts proposed to be placed on the Fiscal Year 2024-2025 County Tax Rolls concerning the necessity for the placement of the contemplated tax liens;

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve and order the submittal of the following liens, attached hereto as Exhibit "A" to the Tulare County Auditor for placement on the property tax rolls for collection.

PASSED, APPROVED AND ADOPTED this 6th day of August, 2024

_____
Martha A. Flores, Mayor

ATTEST:

Patrice Hildreth, City Clerk

By: _____

Fernando Gabriel-Moraga,

Acting Chief Deputy City Clerk

CITY OF PORTERVILLE

UNPAID UTILITIES
FY2024-2025 Tax Roll

Assessee	Property Address		Parcel Number	Assessment Amount
JOSE C VARGAS	1867 N PROSPECT ST	1	143-240-025	$ 9
CYNTHIA BEDOLLA	2563 W MICHELLE LN	2	240-240-034	214
IEVA HAREZ	2405 W WHITE CHAPEL AVE	3	240-250-043	137
VICTORINO CEBALLOS MAGANA	1943 N DOUGLAS ST	4	243-201-005	88
MELODY ZUNIGA	1135 W MERRILL AVE	5	243-201-016	103
STEPHANIE NAVARRETE	1833 N MASTON ST A & B	6	243-203-006	227
MARIA QUINTERO	1846 N PROSPECT ST	7	243-203-008	235
RAMIRO GUDINO	1134 W NORTH GRAND AVE	8	243-204-010	161
JORGE BARAJAS	1830 N MASTON ST	9	243-204-012	88
PATRICIA BETANCOURT	1720 N WILSON PL	10	243-230-034	295
GUSTAVO LEMUS	272 N SALISBURY ST	11	245-111-002	88
GUSTAVO MARTINEZ	269 N YORK ST B	12	245-112-003	29
CARMEN GARCIA	1797 W PUTNAM AVE	13	245-162-005	19
EFREN ALCANTARA VARGA	479 N BELMONT ST	14	245-172-009	315
KATHY GOODWIN	1730 W KANAI AVE	15	245-212-004	920
NITA BLANCAS	2070 W TOMAH AVE	16	245-250-021	152
JUAN LUIS ORTIZ	1750 W SANDRA AVE	17	245-303-010	111
SALVADOR SANCHEZ	1830 W FAIRHAVEN AVE	18	245-410-027	156
JOSE CORONA LEMUS	1610 W MEDIAN AVE	19	245-450-011	75
DINA EBELING	1228 N ATKINS WAY	20	246-022-011	670
RALPH MC LAUGHLIN	1294 N ATKINS WAY	21	246-025-002	219
ISMAEL CARDENAS	850 W CLINTON LN	22	246-070-061	310
ALICIA GARCIA	870 W WESTFIELD AVE 1	23	246-070-071	3
PETE VARGAS	1130 W MULBERRY AVE	24	246-180-004	1,450
ALBERT C WHITE	1440 W SAN LUCIA AVE	25	246-190-016	393
MARGARITO CERCAS	895 W WESTFIELD AVE	26	246-200-028	667
GRACIELA SALINAS	1311 N VILLA ST	27	247-022-009	295
MELISSA WALSH	1261 N LIME ST	28	247-110-011	667
DENISE ARMENTA	1081 N HOWLAND ST	29	247-210-032	58
ANTHONY RODRIGUEZ	920 N HOWLAND CT	30	247-220-071	164
MARIANN VALDEZ	619 W MC COMB AVE	31	247-274-008	145
MARIO SANCHEZ	752 W PIONEER AVE	32	247-300-023	54
JERRY HOGAN	806 N SECOND ST	33	248-033-013	270
JERRY AKIN	616 E HENDERSON AVE	34	248-080-061	350
JAMES B TILDEN	1060 W BELLEVIEW AVE	35	251-103-012	105
BETTY LOU TAFF	281 N MASTON ST	36	251-232-002	755
HUSSAIN Y RAYANI	315 N BEVERLY ST	37	251-323-013	4,593
MARIA FLORES	582 N COTTAGE ST	38	252-022-001	85
ROGER L LAFLEUR	530 N PALM ST	39	252-107-001	513
STEPHEN WARREN	358 W BELLEVIEW AVE	40	252-107-011	60
CHERYL CHAMBERS	331 N CONLEY ST	41	252-253-017	718
ACRO DEVELOPMENT LLC	733 W THURMAN AVE	42	252-311-016	815
SOPHIA SALAS	443 N DIVISION ST	43	253-018-003	355
RALPH SLAYTON	740 N THIRD ST	44	253-044-020	136
ISMAEL RAMOS	335 N PLANO ST	45	253-134-003	265
JUAN AGUAYO	34 E GARDEN AVE	46	253-172-004	683
NICOLAS RAMIREZ GARCIA	525 N LEGGETT ST	47	253-250-001	167

Assessee	Property Address		Parcel Number	Assessment Amount
HIS LIGHT HOUSE LLC	935 E LAUREL AVE	48	254-010-003	373
JAMES ROADY	950 E THURMAN AVE	49	254-071-020	330
GWENDOLYN GREENE	846 E PUTNAM AVE	50	254-073-041	907
KATHARINE ALI	1130 E CLEVELAND AVE	51	254-083-012	279
GREGG WHITFIELD	1131 E THURMAN AVE	52	254-083-017	133
KAREN AQRA	1129 E FAIRHAVEN CT	53	254-110-017	288
JANET STAILEY	357 N CONNER ST	54	254-140-008	232
STEVE PENN	830 E LAUREL AVE	55	255-190-004	650
FERNANDO FERNANDEZ	1611 N LIME ST	56	255-220-037	101
SOURIVAN NICK SOUVANNASING	1093 W FOREST AVE	57	259-160-053	91
CLAUDIA DIAZ GUEVARA	1878 W UNION LN	58	259-200-075	279
ISMAEL CARRILLO	1946 W MONTE CT	59	259-330-013	166
VIRGINIA FLOWERS-PEREZ	316 S COTTAGE ST	60	260-090-028	392
ADRION KEIFFER	758 W ROBY AVE	61	260-111-014	285
MELECIO NUNEZ	221 W RIVER AVE	62	260-310-010	127
ALBERTO VALDEZ GONZALEZ	371 S B ST A	63	261-093-020	59
LYDIA BERNAL-ANDRADE	375 S A ST	64	261-094-006	632
BLANCHE L CASTRO	356 S A ST	65	261-169-022	1,337
JOE ZERMENO	16 S PLANO ST	66	261-210-008	611
TIBURCIA URBINA	281 E RIO VISTA AVE	67	261-322-056	604
SERGIO TAPIA	862 E POPLAR AVE	68	262-240-082	1,342
ELIZABETH BRAZIL	209 S B ST	69	263-103-002	2,105
THELMA UNDERWOOD	976 S WISCONSIN ST	70	268-080-011	916
BETTY BAGBY	955 S INDIANA ST	71	268-080-022	615
GUILLERMINA MENDOZA	969 S WISCONSIN ST	72	268-080-027	106
JOHN SHRY	921 S COTTAGE ST	73	269-010-005	538
BRIANNA ESQUIVEL	154 E YATES AVE	74	270-140-003	530
ALFREDO LUA	1290 S FOURTH ST	75	270-140-021	729
JOSE VIEYRA	254 E GIBBONS AVE	76	270-140-035	438
MARY BOVETTI	158 S CLOVERLEAF ST	77	910-004-718	111
	Total amount of assessments			$ 33,693.00
	Total number of assessments			77

13-14: CHARGES FOR COLLECTION; TIME AND MANNER OF PAYMENT:

A. Fees and charges for the collection and disposal of solid waste collection by the city will be fixed by resolution of the city council.

B. Solid waste collection charges shall be included in the regular city utility bill to customers who also have city water service. When the solid waste customer does not have city water service, a separate bill for solid waste service shall be mailed to the customer who owns or controls the premises serviced.

C. All charges for solid waste service included on utility bills, or if not a part of the city utility bill, shall be due and payable at the same time as other utility charges. If a bill for solid waste is not paid within thirty (30) days after billing date, a charge of ten percent (10%) as a penalty for said delinquency shall be made and added to the amount and become a part of said delinquent utility bill; and the city may discontinue all city utility service to the premises if the bill should remain delinquent on the forty fifth day after billing.

D. All solid waste service charges are the responsibility of the customer whose name appears on the utility billing for the service. If unpaid by the customer billed who controls the premises, they shall be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the customer liable therefor. From the time of recordation of the certificate, the amount required to be paid, together with interest and penalty, constitutes a lien upon all real property in the county owned by the customer or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of and shall be regarded as a judgment lien, which may be extended, if unpaid, by the recording of a renewal certificate before the expiration of ten (10) years of the previously recorded certificate. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002; Ord. 1890, 3-1-2022)

25-8: GUARANTEE OF PAYMENT OF WATER BILLS BY PROPERTY OWNERS; AUTHORIZED GENERALLY; LIEN:

The owners of any property where water is furnished by the city may assume responsibility for the payment of such water by filing with the water department a written acceptance of such responsibility in a form approved by the city attorney, guaranteeing payment of all water bills accruing against such property or utilized by consumers on such property. The writing shall provide that unpaid water bills may be a lien on said property and the amount of said unpaid water bill may be added to the tax statement for said real property and collected in the same manner as real property taxes. (Ord. Code § 3543; Ord. 845 § A, 11-16-1965)

25-37: COLLECTION OF SEWER RENTALS; PENALTIES; DISCONTINUANCE OF WATER SERVICE FOR NONPAYMENT; CHARGES TO BE LIEN:

Charges for sewer rentals shall be included with the water bill and if the charge for sewer rental shall remain unpaid at the due date for the payment of water bills, there shall be added to the sewer rental charge the same penalties and interest as are required for delinquencies or nonpayment of water bills. Water services may be discontinued for nonpayment of the charge for sewer rental or sewer rental penalties and interest, and any unpaid charge for sewer rental or sewer rental penalties or interest may be placed as a lien on the real property involved. (Ord. Code § 3635.1)

SUBJECT: Financial Status Reports

SOURCE: Finance

COMMENT: The City Charter requires financial reports to be provided to City Council on a monthly basis. Council Minute Order No. 10-011607 approved the recommended change in submittal of the interim financial status reports and established the requirements and parameters in the presentation of the reports.

In accordance with Council Minute Order No. 10-011607, the preliminary financial status reports for the year ended June 30, 2024, are submitted. These reports are preliminary as accruals of both revenues and expenditures for the fiscal year are still being processed.

RECOMMENDATION: That the City Council accept the preliminary financial status reports as presented.

ATTACHMENTS:
1. Preliminiary Financial Status Reports - Fiscal Year 2023-2024

Appropriated/Funded:

Review By:

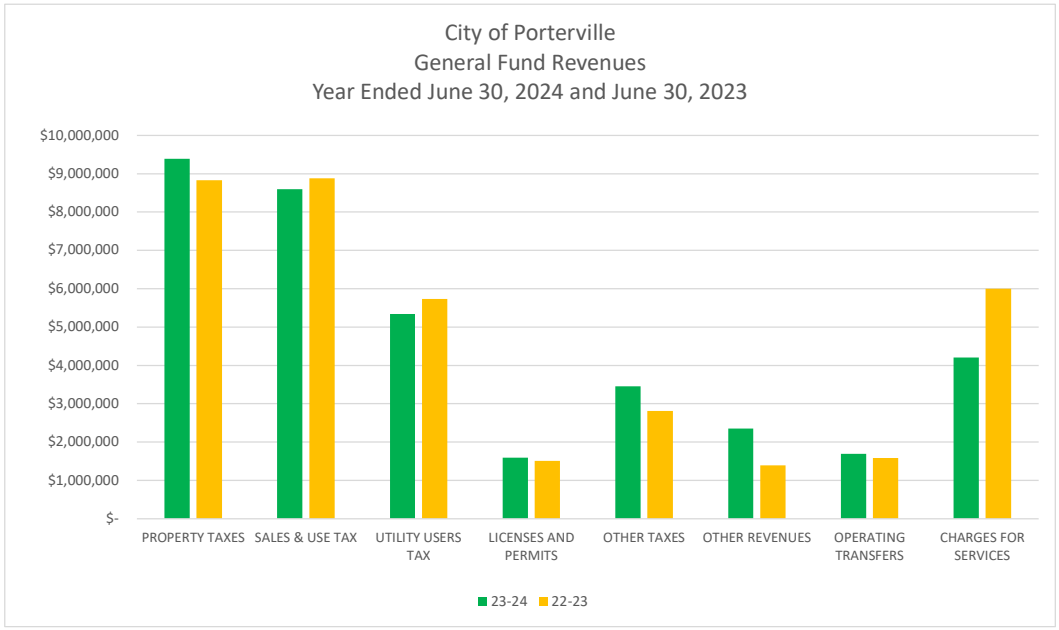
Department Director:
Janie Rodriguez, Finance Director

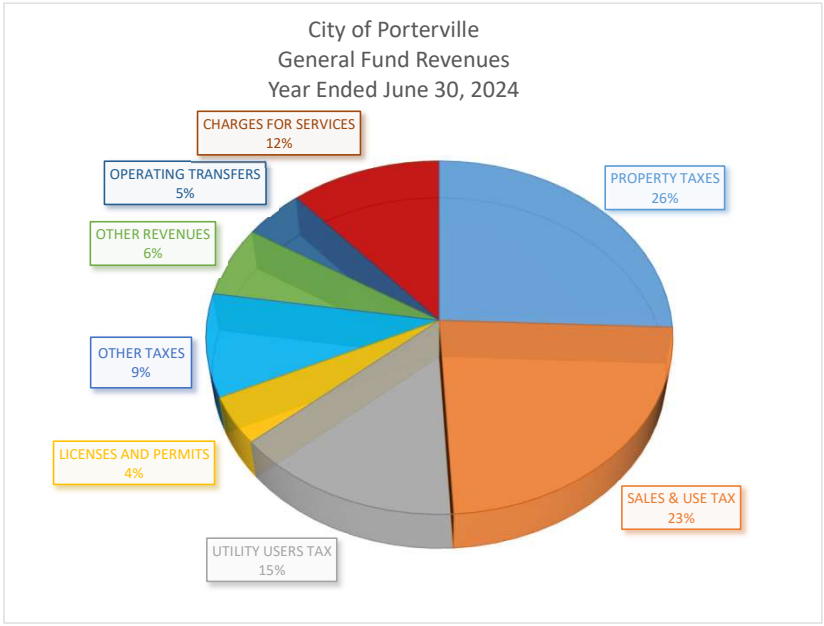
Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE

REVENUE STATUS REPORT - GENERAL FUND
FOR THE YEARS ENDED
JUNE 30, 2024 AND JUNE 30, 2023
PRELIMINARY

REVENUE SOURCE	2023-2024 ESTIMATED REVENUE	2023-2024 YEAR-TO-DATE REVENUE	% OF ESTIMATE	2022-2023 ESTIMATED REVENUE	2022-2023 YEAR-TO-DATE REVENUE	% OF ESTIMATE
PROPERTY TAXES	$ 8,970,000	$ 9,381,647	104.59%	$ 8,373,700	$ 8,833,023	105.49%
OTHER TAXES:						
SALES AND USE TAX	8,390,000	8,195,211	97.68%	8,361,626	8,452,098	101.08%
UTILITY USERS TAX	5,700,000	5,342,576	93.73%	4,600,000	5,726,829	124.50%
TRANSIENT OCCUPANCY TAX	785,000	753,526	95.99%	840,000	785,849	93.55%
PROPERTY TRANSFER TAX	100,000	86,430	86.43%	120,000	104,249	86.87%
FRANCHISE TAX	1,841,134	1,877,519	101.98%	1,661,134	1,834,437	110.43%
SALES TAX - PUBLIC SAFETY	400,000	399,117	99.78%	300,000	421,769	140.59%
PAYMENT IN LIEU OF TAXES	676,084	651,069	96.30%	-	-	-
LICENSES AND PERMITS:						
BUSINESS AND OTHER LICENSES	1,055,000	1,063,487	100.80%	511,300	845,006	165.27%
CONSTRUCTION PERMITS	655,000	525,988	80.30%	750,000	663,672	88.49%
REVENUE FROM AGENCIES-TAXES:						
VEHICLE LICENSE FEES	65,000	77,388	119.06%	68,000	64,219	94.44%
OTHER TAXES	21,000	10,430	49.67%	22,000	20,838	94.72%
REVENUE FROM AGENCIES-GRANTS	13,646,311	366,856	2.69%	167,538	364,437	217.52%
USE OF MONEY AND PROPERTY	622,920	1,488,633	238.98%	304,000	778,832	256.19%
FINES AND FORFEITURES	24,500	16,700	68.16%	32,500	24,535	75.49%
CHARGES FOR SERVICES:						
PLANNING AND ENGINEERING	123,000	106,193	86.34%	123,000	136,368	110.87%
POLICE	505,000	503,996	99.80%	351,500	507,083	144.26%
FIRE	66,500	198,903	299.10%	40,500	151,804	374.82%
LIBRARY	12,000	18,286	152.38%	10,000	12,906	129.06%
RECREATIONAL	300,521	460,850	153.35%	3,098,755	2,574,171	83.07%
INTERDEPARTMENTAL	2,500,000	2,837,657	113.51%	2,600,000	2,538,093	97.62%
OTHER	77,454	80,130	103.45%	48,636	78,387	161.17%
OTHER REVENUES	153,000	478,112	312.49%	71,000	219,586	309.28%
SUBTOTALS	$ 46,689,424	$ 34,920,704	74.79%	$ 32,455,189	$ 35,138,191	108.27%
OPERATING TRANSFERS	1,404,053	1,324,646	94.34%	1,502,140	1,390,318	92.56%
DEBT SERVICE TRANSFERS	195,300	183,207	93.81%	269,264	195,610	72.65%
TOTALS	$ 48,288,777	$ 36,428,557	75.44%	$ 34,226,593	$ 36,724,119	107.30%

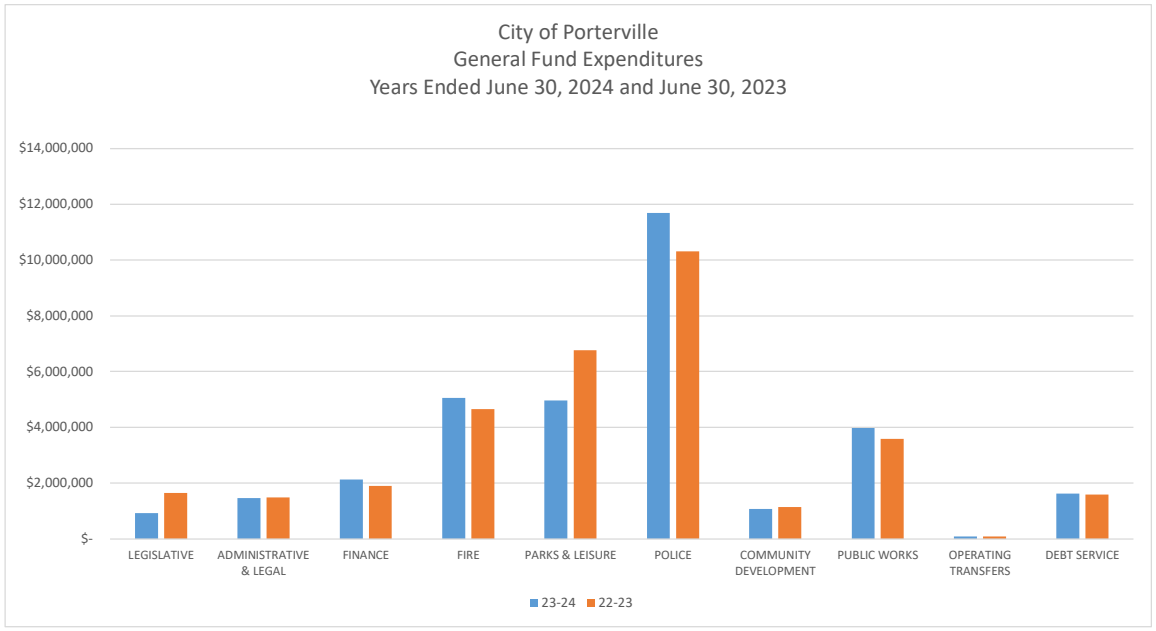

City of Porterville
General Fund Revenues
Year Ended June 30, 2024 and June 30, 2023
$10,000,000
$9,000,000
$8,000,000
$7,000,000
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$-
PROPERTY TAXES
SALES & USE TAX
UTILITY USERS TAX
LICENSES AND PERMITS
OTHER TAXES
OTHER REVENUES
OPERATING TRANSFERS
CHARGES FOR SERVICES
23-24
22-23

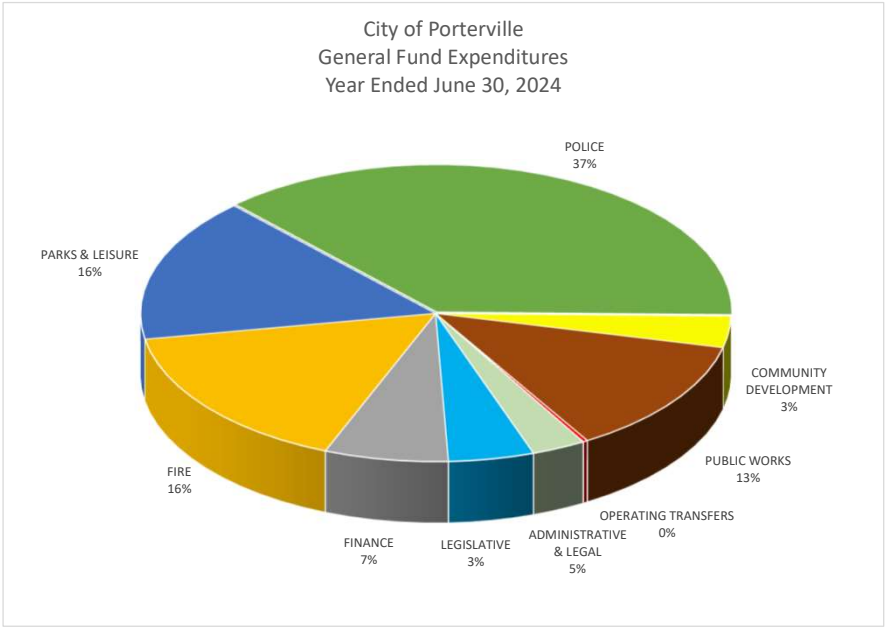

City of Porterville
General Fund Revenues
Year Ended June 30, 2024
CHARGES FOR SERVICES 12%
OPERATING TRANSFERS 5%
OTHER REVENUES 6%
OTHER TAXES 9%
LICENSES AND PERMITS 4%
UTILITY USERS TAX 15%
SALES & USE TAX 23%
PROPERTY TAXES 26%

CITY OF PORTERVILLE

EXPENDITURE STATUS REPORT - GENERAL FUND
FOR THE YEARS ENDED
JUNE 30, 2024 AND JUNE 30, 2023
PRELIMINARY

	2023-2024 AMENDED APPROP	2023-2024 YEAR-TO-DATE EXPEND	% OF APPROP	2022-2023 AMENDED APPROP	2022-2023 YEAR-TO-DATE EXPEND	% OF APPROP
LEGISLATIVE:						
CITY COUNCIL	$ 288,950	$ 168,756	58.4%	$ 222,917	$ 230,225	103.3%
COMMUNITY PROMOTION	344,333	269,980	78.4%	330,952	251,392	76.0%
EMERGENCY - LIBRARY	633,283	183,748	29.0%	336,105	291,636	86.8%
EMERGENCY - STORMS	135,700	304,656	224.5%	-	874,938	-
ADMINISTRATIVE & LEGAL:						
CITY MANAGER	487,770	516,061	105.8%	398,209	460,370	115.6%
CITY CLERK	328,130	346,654	105.6%	243,704	334,241	137.2%
HUMAN RESOURCES	458,284	502,666	109.7%	435,747	568,596	130.5%
CITY ATTORNEY	200,000	104,437	52.2%	225,000	124,675	55.4%
FINANCE:						
FINANCE & ACCOUNTING	1,340,386	1,251,261	93.4%	1,194,568	1,073,878	89.9%
INFORMATION SERVICES	678,928	556,864	82.0%	683,476	514,315	75.2%
ADMINISTRATIVE SERVICES	376,694	317,631	84.3%	323,154	316,482	97.9%
POLICE PROTECTION	12,166,426	11,687,624	96.1%	10,958,716	10,306,342	94.0%
FIRE PROTECTION	5,035,134	5,056,306	100.4%	4,661,381	4,653,107	99.8%
COMMUNITY DEVELOPMENT:						
PLANNING & ZONING	808,063	650,027	80.4%	742,784	688,960	92.8%
ECONOMIC DEVELOPMENT	528,208	427,922	81.0%	493,042	450,717	91.4%
PUBLIC WORKS:						
ENGINEERING & BUILDING	1,985,770	2,190,943	110.3%	1,687,371	1,819,342	107.8%
STREET MAINTENANCE	665,102	625,264	94.0%	546,410	604,465	110.6%
SIGNALS, SIGNING & STRIPING	391,661	337,978	86.3%	301,459	366,120	121.4%
STREET LIGHTING	637,951	707,677	110.9%	539,518	630,885	116.9%
STORM DRAINS	95,474	43,060	45.1%	92,585	80,263	86.7%
PARKING LOTS	86,951	78,253	90.0%	68,209	85,859	125.9%
PARKS & LEISURE:						
PARK MAINTENANCE & OPERATION	2,789,869	2,770,713	99.3%	2,624,504	2,800,392	106.7%
STREET TREES & PARKWAYS	304,479	250,813	82.4%	234,169	250,518	107.0%
COMMUNITY CENTERS	-	-	-	96,217	-	-
LEISURE SERVICES	440,937	396,522	89.9%	392,434	392,469	100.0%
LEISURE SERVICES - SPECIAL PROG	449,336	564,820	125.7%	2,953,842	2,421,405	82.0%
SWIMMING POOL	258,832	255,061	98.5%	173,950	253,107	145.5%
LIBRARY OPERATIONS	873,445	679,965	77.8%	825,889	620,849	75.2%
HOMELESS ENCAMPMENTS	-	148	-	-	-	-
SPECIAL PROJECTS	37,955	43,902	115.7%	36,506	28,689	78.6%
SUB TOTALS	32,828,051	31,289,712	95.3%	31,822,818	31,494,237	99.0%
OPERATING TRANSFERS	79,000	79,000	100.0%	79,000	79,000	100.0%
DEBT SERVICE	1,626,622	1,626,622	100.0%	1,596,469	1,596,469	100.0%
	$ 34,533,673	$ 32,995,334	95.5%	$ 33,498,287	$ 33,169,706	99.0%

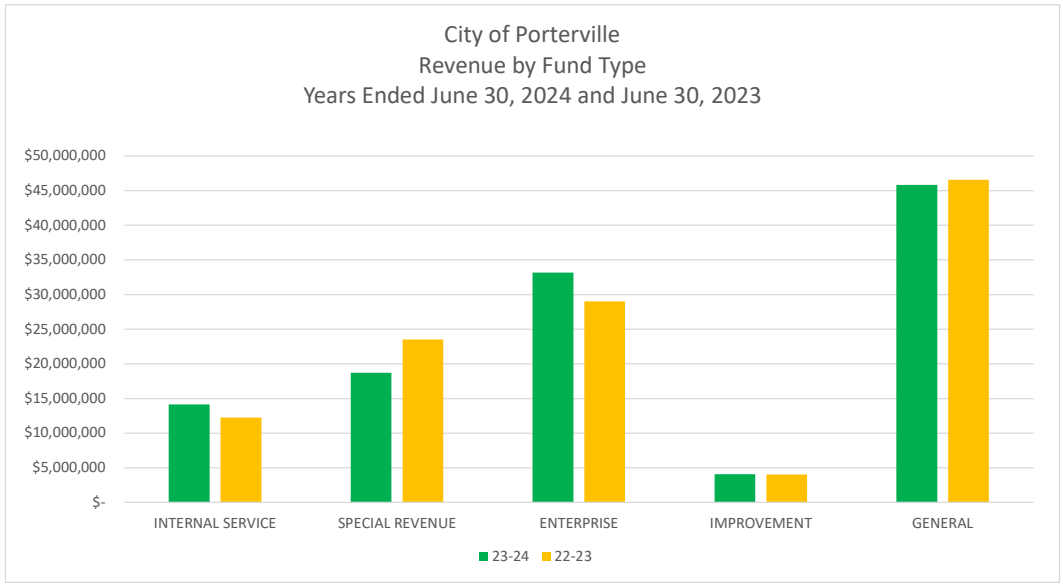

City of Porterville
General Fund Expenditures
Years Ended June 30, 2024 and June 30, 2023
$14,000,000
$12,000,000
$10,000,000
$8,000,000
$6,000,000
$4,000,000
$2,000,000
$-
LEGISLATIVE
ADMINISTRATIVE & LEGAL
FINANCE
FIRE
PARKS & LEISURE
POLICE
COMMUNITY DEVELOPMENT
PUBLIC WORKS
OPERATING TRANSFERS
DEBT SERVICE
23-24
22-23

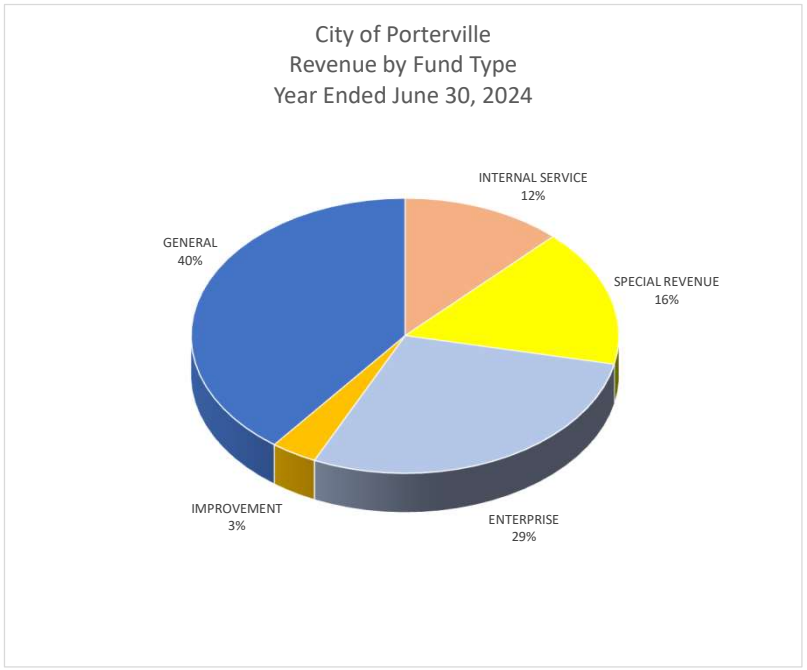

City of Porterville
General Fund Expenditures
Year Ended June 30, 2024
POLICE 37%
COMMUNITY DEVELOPMENT 3%
PUBLIC WORKS 13%
OPERATING TRANSFERS 0%
ADMINISTRATIVE & LEGAL 5%
LEGISLATIVE 3%
FINANCE 7%
FIRE 16%
PARKS & LEISURE 16%

CITY OF PORTERVILLE

REVENUE STATUS REPORT - ALL OTHER FUNDS
FOR THE YEARS ENDED
JUNE 30, 2024 AND JUNE 30, 2023
PRELIMINARY

REVENUE SOURCE	2023-2024 ESTIMATED REVENUE	2023-2024 YEAR-TO-DATE REVENUE	% OF ESTIMATE	2022-2023 ESTIMATED REVENUE	2022-2023 YEAR-TO-DATE REVENUE	% OF ESTIMATE
MEASURE H SALES TAX	$ 5,485,500	$ 5,655,918	103.1%	$ 5,460,597	$ 5,658,382	103.6%
MEASURE I SALES TAX	10,974,000	11,639,528	106.1%	10,741,776	11,421,569	106.3%
AMERICAN RESCUE PLAN ACT	8,308,913	3,458,931	41.6%	11,113,000	6,423,721	57.8%
SPECIAL GAS TAX	4,704,338	4,132,351	87.8%	4,757,438	3,981,906	83.7%
LOCAL TRANSPORTATION FUNDS (LTF)	27,290,500	2,233,160	8.2%	32,849,952	4,661,835	14.2%
TRAFFIC SAFETY FUND	101,000	80,106	79.3%	100,200	28,428	28.4%
ZALUD ESTATE	6,800	4,972	73.1%	5,650	7,015	124.2%
COMMUNITY DEVELOPMENT BLOCK GRANT	3,170,500	1,475,968	46.6%	1,851,488	1,339,352	72.3%
SPECIAL SAFETY GRANTS	906,071	859,497	94.9%	781,539	716,214	91.6%
SEWER OPERATING	7,444,900	8,752,431	117.6%	7,378,925	7,507,939	101.7%
REFUSE REMOVAL	6,991,600	8,989,626	128.6%	6,636,466	7,012,035	105.7%
AIRPORT OPERATIONS	1,708,810	2,133,726	124.9%	2,081,500	1,713,725	82.3%
GOLF COURSE	250,600	329,055	131.3%	220,900	253,579	114.8%
WATER OPERATING	13,645,000	12,973,606	95.1%	13,246,005	12,528,019	94.6%
RISK MANAGEMENT	9,159,250	9,195,562	100.4%	7,533,016	7,809,560	103.7%
EQUIPMENT MAINTENANCE	4,739,200	4,919,577	103.8%	3,854,200	4,453,508	115.5%
LANDSCAPE MAINTENANCE DISTRICT	177,000	175,670	99.2%	132,682	134,938	101.7%
WATER REPLACEMENT	4,012,000	1,383,529	34.5%	4,540,000	1,254,524	27.6%
SOLID WASTE RESERVE	961,168	1,057,992	110.1%	953,070	999,350	104.9%
SEWER REVOLVING	433,000	560,201	129.4%	447,898	622,922	139.1%
TRANSPORTATION DEVELOPMENT	210,000	321,118	152.9%	295,000	234,174	79.4%
PARK DEVELOPMENT	50,100	36,668	73.2%	1,805,100	48,378	2.7%
TREATMENT PLANT RESERVE	1,010,870	1,053,892	104.3%	992,240	1,162,508	117.2%
STORM DRAIN DEVELOPMENT	230,000	308,800	134.3%	320,000	272,265	85.1%
BUILDING CONSTRUCTION	2,000	4,779	239.0%	1,000	4,029	402.9%
TOTALS	$ 111,973,120	$ 81,736,663	73.0%	$ 118,099,642	$ 80,249,875	68.0%

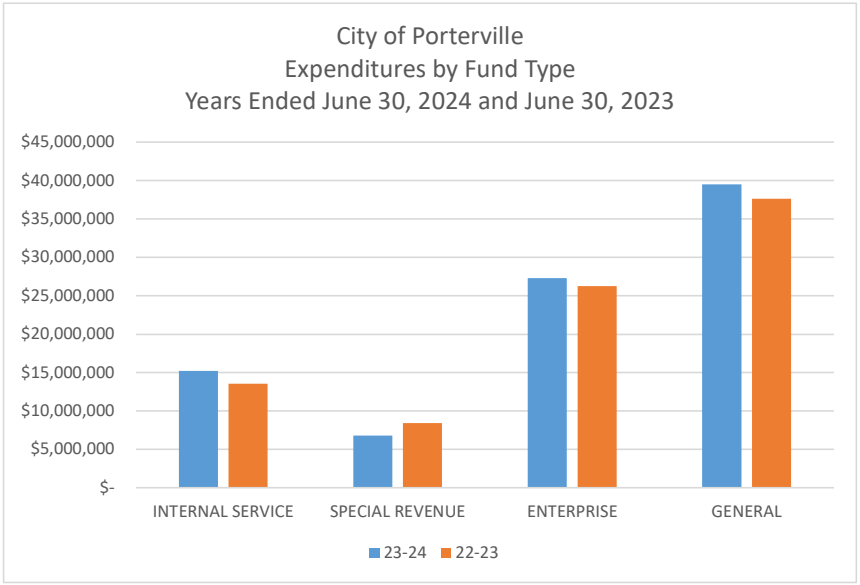

City of Porterville
Revenue by Fund Type
Years Ended June 30, 2024 and June 30, 2023
$50,000,000
$45,000,000
$40,000,000
$35,000,000
$30,000,000
$25,000,000
$20,000,000
$15,000,000
$10,000,000
$5,000,000
$-
INTERNAL SERVICE
SPECIAL REVENUE
ENTERPRISE
IMPROVEMENT
GENERAL
23-24
22-23

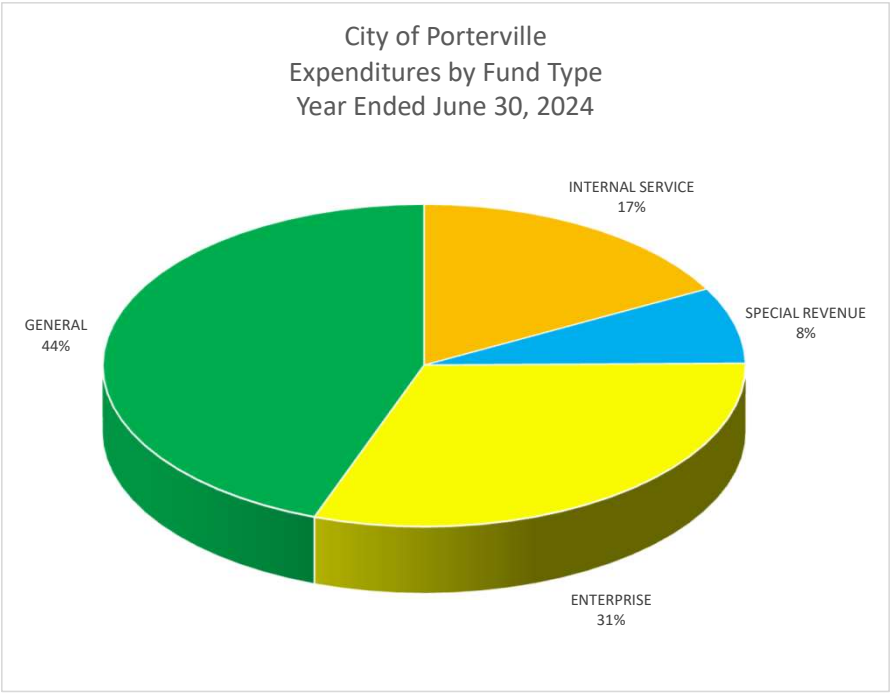

City of Porterville
Revenue by Fund Type
Year Ended June 30, 2024
INTERNAL SERVICE
12%
SPECIAL REVENUE
16%
ENTERPRISE
29%
IMPROVEMENT
3%
GENERAL
40%

CITY OF PORTERVILLE

EXPENDITURE STATUS REPORT - ALL OTHER FUNDS
FOR THE YEARS ENDED
JUNE 30, 2024 AND JUNE 30, 2023
PRELIMINARY

	2023-2024 AMENDED APPROP	2023-2024 YEAR-TO-DATE EXPEND	% OF APPROP	2022-2023 AMENDED APPROP	2022-2023 YEAR-TO-DATE EXPEND	% OF ACTUAL
MEASURE H SALES TAX	$ 4,972,164	$ 4,808,667	96.7%	$ 4,457,666	$ 4,571,246	102.5%
MEASURE I SALES TAX	8,353,246	8,212,677	98.3%	5,881,050	6,132,352	104.3%
AMERICAN RESCUE PLAN ACT	996,454	669,816	67.2%	2,866,987	2,806,665	97.9%
ZALUD ESTATE	39,480	41,632	105.5%	31,855	38,448	120.7%
COMMUNITY DEVELOPMENT BLOCK GRANT	451,464	137,015	30.3%	190,459	217,058	114.0%
SPECIAL SAFETY GRANTS	1,039,625	971,516	93.4%	793,549	655,642	82.6%
SEWER OPERATING	6,299,829	6,382,828	101.3%	6,820,260	6,608,314	96.9%
REFUSE REMOVAL	7,427,270	8,044,825	108.3%	6,999,034	7,455,751	106.5%
AIRPORT	1,604,969	1,793,239	111.7%	1,767,875	1,499,191	84.8%
GOLF COURSE	562,003	575,228	102.4%	500,496	558,464	111.6%
WATER OPERATING	12,284,741	10,455,773	85.1%	9,454,882	10,105,823	106.9%
RISK MANAGEMENT	9,665,230	10,427,609	107.9%	9,340,626	8,771,696	93.9%
EQUIPMENT MAINTENANCE	4,751,272	4,804,777	101.1%	3,802,800	4,813,581	126.6%
LANDSCAPE MAINTENANCE DISTRICT	239,870	225,811	94.1%	222,738	201,280	90.4%
TOTALS	$ 58,687,617	$ 57,551,413	98.1%	$ 53,130,277	$ 54,435,511	102.5%


City of Porterville
Expenditures by Fund Type
Years Ended June 30, 2024 and June 30, 2023
$45,000,000
$40,000,000
$35,000,000
$30,000,000
$25,000,000
$20,000,000
$15,000,000
$10,000,000
$5,000,000
$-
INTERNAL SERVICE
SPECIAL REVENUE
ENTERPRISE
GENERAL
23-24
22-23


City of Porterville
Expenditures by Fund Type
Year Ended June 30, 2024
INTERNAL SERVICE
17%
SPECIAL REVENUE
8%
GENERAL
44%
ENTERPRISE
31%

CITY OF PORTERVILLE
INTERIM PERFORMANCE REPORT - MEASURE H
For the Years Ended June 30, 2024 and June 30, 2023
PRELIMINARY

	FY 2023-24	FY 2022-23
REVENUES		
Sales Tax - Measure H	$ 5,655,918	5,489,744
State Grants	-	6,374
Interest	116,441	87,201
Police Services	9,828	5,618
Police Cost Recoveries	67,045	67,045
Contributions	-	2,400
TOTAL REVENUES	5,849,232	5,658,382
EXPENDITURES		
Police Department	1,920,389	1,870,209
Fire Department	2,121,482	2,074,758
Public Safety Station	247,443	199,540
Library & Literacy	519,353	426,740
TOTAL EXPENDITURES	4,808,667	4,571,247
CAPITAL PROJECTS		
Animal Shelter	-	41,705
Fire Department Classroom/Training	561,208	
TOTAL CAPITAL PROJECTS	561,208	41,705
REVENUE OVER/(UNDER) EXPENDITURES	$ 479,357	$ 1,045,430

CITY OF PORTERVILLE
INTERIM PERFORMANCE REPORT - MEASURE I
For the Years Ended June 30, 2024 and June 30, 2023
PRELIMINARY

	FY 2023-24	FY 2022-23
REVENUES		
Sales Tax - Measure I	$ 10,951,372	$ 10,950,554
Sales Tax - Measure R	62,390	-
State/County Grants	85,401	69,413
Interest	535,221	399,286
Police Services	5,144	2,316
TOTAL REVENUES	11,639,528	11,421,569
EXPENDITURES		
Police Department	4,401,101	3,823,633
Fire Department	3,507,379	2,078,755
Streets Program	123,559	91,179
Litter Abatement Program	180,638	138,785
TOTAL EXPENDITURES	8,212,677	6,132,352
CAPITAL PROJECTS		
AC Pavement Repair/Overlay	209,591	274,131
Fire Dept Classroom/Training	-	25,534
Fire Dept Training Grounds Dev	414,530	4,153
Fire Dept Engine Replacement	428,844	-
Fire Dept Ladder Truck Replacement	843,952	-
Fire Station Remodel/Additions	131,601	434,893
Grand Ave Connection between 4th and Henrahan	-	13,833
Medians Restoration Project	-	1,574
Montgomery Ave Reconstruction - Jaye to H	-	1,721
Morton Ave Reconstruction	108,726	13,544
Pavement Management Program	-	4,018
PD Evidence Storage Facilities	-	35,260
Villa St Reconstruction - Olive to Henderson	4,698,620	80,910
TOTAL CAPITAL PROJECTS	6,835,865	889,571
REVENUE OVER/(UNDER) EXPENDITURES	$ (3,409,013)	$ 4,399,646

CITY OF PORTERVILLE
INTERIM PERFORMANCE REPORT - ENTERPRISE FUNDS
For the years ended June 30, 2024 and June 30, 2023
PRELIMINARY

FUND	REVENUES	EXPENSES	6/30/2024 NET OPERATING PROFIT (LOSS)	6/30/2023 NET OPERATING PROFIT (LOSS)
Zalud Estate	$ 4,972	$ (41,632)	$ (36,660)	$ (31,434)
Sewer Operating	$ 8,752,431	$ (6,382,828)	$ 2,369,603	$ 899,626
Solid Waste	$ 8,989,626	$ (8,044,825)	$ 944,801	$ (443,716)
Airport	$ 2,133,726	$ (1,793,239)	$ 340,487	$ 214,534
Golf	$ 329,055	$ (575,228)	$ (246,173)	$ (304,885)
Water Operating	$ 12,973,606	$ (10,455,773)	$ 2,517,833	$ 2,422,196

SUBJECT: Quarterly Investment Portfolio

SOURCE: Finance

COMMENT: This report reflects the investment portfolio of the City as of June 30, 2024, and is in compliance with California Government Section 27000, etc., Section 53600, etc. and the City of Porterville's Statement of Investment Policy. Investments are selected based on the statutory objectives of safety, liquidity and yield.

Items identified in the summary include portfolio composition, weighted average rate of earnings, weighted average days to maturity, and the percentage of liquid holdings.

RECOMMENDATION: That the City Council accept the quarterly investment portfolio summary report.

ATTACHMENTS: 1. Investment Portfolio Summary - June 30, 2024

Appropriated/Funded:

Review By:

Department Director:
Janie Rodriguez, Finance Director

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
PORTFOLIO SUMMARY AS OF JUNE 30, 2024

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
1006	LOCAL AGENCY INVESTMENT FUND	$ 9,407,947	$ 9,373,288	4.550%	DAILY	DAILY	1
1104	CSJVRMA INVESTMENT FUND	7,515,755	7,424,133	1.900%	DAILY	DAILY	30
866	TULARE COUNTY INVESTMENT POOL	10,164,274	10,164,274	3.480%	DAILY	DAILY	30
CA-01-0026	CALIFORNIA CLASS	16,712,299	16,712,299	5.401%	DAILY	DAILY	1
	CORNERSTONE MAIN PARTNERS, L.P.	2,778,511	2,778,511	2.400%	12/12/2018	11/30/2038	5,266
3134GXF74	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	998,510	3.625%	7/26/2022	7/26/2024	26
3134GXP81	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	996,710	3.820%	8/30/2022	8/28/2024	59
3130ATFL6	FEDERAL HOME LOAN BANKS	1,000,000	996,950	4.600%	9/30/2022	9/30/2024	92
3130AQRM7	FEDERAL HOME LOAN BANKS	1,000,000	975,670	1.550%	2/25/2022	2/25/2025	240
3130B0GH6	FEDERAL HOME LOAN BANKS	1,000,000	998,840	5.375%	3/14/2024	3/14/2025	257
3130ARQ95	FEDERAL HOME LOAN BANKS	1,000,000	981,770	3.030%	4/29/2022	4/28/2025	302
3130AS2Q1	FEDERAL HOME LOAN BANKS	1,000,000	982,250	3.150%	5/23/2022	5/23/2025	327
3134GXUC6	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	984,220	3.400%	5/27/2022	5/23/2025	327
3134GXF66	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	989,000	4.000%	8/1/2022	8/1/2025	397
3130ASU98	FEDERAL HOME LOAN BANKS, STEP-UF	1,000,000	998,150	4.000%	8/25/2022	8/25/2025	421
3135GACV1	FEDERAL NATIONAL MORTGAGE ASSO(	1,000,000	988,260	4.000%	8/30/2022	8/28/2025	424
3130ATG35	FEDERAL HOME LOAN BANKS	1,000,000	996,720	5.000%	10/17/2022	10/17/2025	474
3130AY2T2	FEDERAL HOME LOAN BANKS	1,000,000	999,590	5.600%	12/26/2023	12/26/2025	544
3130AYBL9	FEDERAL HOME LOAN BANKS STEP UP	1,000,000	999,230	5.250%	12/26/2023	12/26/2025	544
3130BOFU8	FEDERAL HOME LOAN BANKS	1,000,000	998,760	5.450%	3/14/2024	12/30/2025	548
3133ENR77	FEDERAL FARM CREDIT BANKS	1,000,000	995,690	4.920%	10/12/2022	1/12/2026	561
3130AQJJ3	FEDERAL HOME LOAN BANKS	1,000,000	951,380	1.250%	1/26/2022	1/26/2026	575
3130AYP59	FEDERAL HOME LOAN BANKS	1,000,000	998,800	5.500%	1/26/2024	1/26/2026	575
3130AKXB7	FEDERAL HOME LOAN BANKS	2,000,000	1,862,780	0.580%	3/18/2021	2/11/2026	591
3130ALGJ7	FEDERAL HOME LOAN BANKS	975,000	912,103	1.000%	3/23/2021	3/23/2026	631
3133EMUK6	FEDERAL FARM CREDIT BANKS	1,000,000	937,680	1.050%	3/25/2021	3/25/2026	633
3130ALS62	FEDERAL HOME LOAN BANKS, STEPUP	1,000,000	942,380	0.750%	3/30/2021	3/30/2026	638
3130AM3R1	FEDERAL HOME LOAN BANKS	1,000,000	932,970	1.000%	4/29/2021	4/29/2026	668
3134GXXF6	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	972,410	3.500%	6/28/2022	6/26/2026	726
3130ASD71	FEDERAL HOME LOAN BANKS	1,000,000	969,790	3.200%	6/29/2022	6/29/2026	729
3130ANM64	FEDERAL HOME LOAN BANKS	1,000,000	922,230	1.000%	8/26/2021	8/26/2026	787
3130ANUN8	FEDERAL HOME LOAN BANKS	2,000,000	1,841,020	1.040%	9/21/2021	9/21/2026	813
3130ANUX6	FEDERAL HOME LOAN BANKS	1,000,000	921,190	1.100%	9/28/2021	9/28/2026	820
3133ENN89	FEDERAL FARM CREDIT BANKS	2,000,000	1,985,580	4.870%	9/28/2022	9/28/2026	820
3130APCH6	FEDERAL HOME LOAN BANKS	1,000,000	921,640	1.125%	9/29/2021	9/29/2026	821
3130APDK8	FEDERAL HOME LOAN BANKS	1,000,000	920,950	1.100%	9/30/2021	9/30/2026	822
3130APCX1	FEDERAL HOME LOAN BANKS	1,000,000	922,040	1.250%	10/26/2021	10/26/2026	848
3130APDQ5	FEDERAL HOME LOAN BANKS	1,000,000	921,900	1.250%	10/28/2021	10/28/2026	850
3130APG82	FEDERAL HOME LOAN BANKS	1,000,000	933,520	0.850%	11/2/2021	10/28/2026	850
3130APTJ4	FEDERAL HOME LOAN BANKS	1,000,000	920,330	1.250%	11/24/2021	11/24/2026	877
3130APU37	FEDERAL HOME LOAN BANKS	1,000,000	921,450	1.300%	11/24/2021	11/24/2026	877
3130AQ7F4	FEDERAL HOME LOAN BANKS	1,500,000	1,384,680	1.600%	12/30/2021	12/30/2026	913
3130AQ5Q2	FEDERAL HOME LOAN BANKS	2,000,000	1,843,860	1.500%	12/30/2021	12/30/2026	913
3133ENNG1	FEDERAL FARM CREDIT BANKS	2,000,000	1,862,840	1.860%	2/8/2022	2/8/2027	953
3130AQRH8	FEDERAL HOME LOAN BANKS	1,000,000	934,050	2.000%	2/25/2022	2/25/2027	970
3130ARA76	FEDERAL HOME LOAN BANKS	2,000,000	1,874,360	2.250%	3/30/2022	3/30/2027	1,003
3130ARU74	FEDERAL HOME LOAN BANKS	1,000,000	964,630	3.375%	5/17/2022	5/17/2027	1,051
3130ARUX7	FEDERAL HOME LOAN BANKS	1,000,000	974,880	3.750%	5/19/2022	5/19/2027	1,053
3133EN3Y4	FEDERAL FARM CREDIT BANKS	1,000,000	1,000,040	5.330%	12/14/2022	6/14/2027	1,079
3130ASD63	FEDERAL HOME LOAN BANKS	1,000,000	961,840	3.250%	6/28/2022	6/28/2027	1,093
3130ASFQ7	FEDERAL HOME LOAN BANKS	1,000,000	981,610	4.000%	6/29/2022	6/29/2027	1,094
3130ASPE3	FEDERAL HOME LOAN BANKS	1,000,000	985,540	4.300%	7/28/2022	7/28/2027	1,123
3133ENL32	FEDERAL FARM CREDIT BANKS	1,000,000	980,650	4.230%	9/8/2022	9/8/2027	1,165
3134GX3K8	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	996,250	5.250%	10/20/2022	10/20/2027	1,207
3130AV6T4	FEDERAL HOME LOAN BANKS	1,000,000	998,960	5.750%	3/27/2023	3/27/2028	1,366
3134H1EP4	FEDERAL HOME LOAN MORTGAGE COF	1,000,000	996,600	5.350%	10/17/2023	9/29/2028	1,552
3130AYUU8	FEDERAL HOME LOAN BANKS	1,000,000	996,670	5.750%	2/28/2024	2/20/2029	1,696
48133DN55	JP MORGAN CHASE FINL CO	2,000,000	1,989,080	4.050%	7/29/2022	7/29/2024	29
13605WWW7	CANADIAN IMPERIAL BANK	1,000,000	968,090	2.500%	4/28/2020	4/10/2025	284
89236TKC8	TOYOTA MOTOR CRD CORP	1,000,000	985,900	3.950%	9/8/2022	6/30/2025	365
17298CK64	CITIGROUP INC	1,000,000	945,510	1.000%	8/28/2020	8/28/2025	424
06748XQR5	BARCLAYS BANK	1,000,000	977,400	4.500%	9/12/2022	3/12/2026	620
89114TK84	TORONTO DOMINION BANK	2,000,000	1,832,260	1.050%	6/16/2021	3/16/2026	624
06368EWM0	BANK OF MONTREAL	2,000,000	1,828,880	1.220%	3/17/2021	3/17/2026	625

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
06048WV56	BANK OF AMERICA	1,000,000	971,800	4.000%	5/5/2022	5/5/2026	674
17290A3E8	CITIGROUP INC	1,000,000	911,070	1.250%	7/1/2021	7/1/2026	731
90279GH44	UBS	1,000,000	982,230	5.650%	7/31/2023	7/31/2026	761
38150AHV0	GOLDMAN SACHS GROUP INC	1,000,000	908,200	1.400%	9/30/2021	9/30/2026	822
06048WZ29	BANK OF AMERICA CORP	1,000,000	996,100	6.000%	10/20/2022	10/20/2027	1,207
78014RKF6	ROYAL BANK OF CANADA	1,000,000	988,850	5.450%	1/18/2023	1/18/2028	1,297
61766YMT5	MORGAN STANLEY FIN	1,000,000	966,450	5.150%	1/20/2023	1/20/2028	1,299
25161FUC0	DEUTSCHE BANK	1,000,000	988,390	5.150%	2/13/2024	2/13/2029	1,689
90262Y802	UBS	1,000,000	1,000,000	5.200%	6/3/2024	DAILY	1
90262Y802	UBS	1,000,000	1,000,000	5.200%	6/24/2024	DAILY	1
14042RSH5	CERTIFICATE OF DEPOSIT	245,000	244,958	3.300%	6/29/2022	7/1/2024	1
15118RRHS	CERTIFICATE OF DEPOSIT	249,000	247,486	1.850%	8/30/2019	8/30/2024	61
938828BM1	CERTIFICATE OF DEPOSIT	249,000	247,598	2.000%	8/30/2019	8/30/2024	61
98970LC43	CERTIFICATE OF DEPOSIT	243,000	242,978	5.400%	3/31/2023	9/27/2024	89
23204HLJ5	CERTIFICATE OF DEPOSIT	250,000	249,250	4.500%	10/26/2022	10/28/2024	120
12547CAK4	CERTIFICATE OF DEPOSIT	250,000	248,830	4.600%	2/24/2023	2/24/2025	239
654062LB2	CERTIFICATE OF DEPOSIT	250,000	247,893	4.100%	9/28/2022	3/28/2025	271
02589AC34	CERTIFICATE OF DEPOSIT	250,000	244,888	2.550%	4/17/2022	4/7/2025	281
32022RRW9	CERTIFICATE OF DEPOSIT	250,000	244,455	3.050%	7/25/2022	7/25/2025	390
06740KQZ3	CERTIFICATE OF DEPOSIT	250,000	245,098	3.300%	7/27/2022	7/28/2025	393
20825WAZ3	CERTIFICATE OF DEPOSIT	249,000	244,222	3.400%	8/15/2022	8/15/2025	411
795451CD3	CERTIFICATE OF DEPOSIT	240,000	235,162	3.350%	8/24/2022	8/25/2025	421
06168LAB4	CERTIFICATE OF DEPOSIT	244,000	241,087	4.150%	10/12/2022	10/14/2025	471
693963AB6	CERTIFICATE OF DEPOSIT	249,000	246,186	4.200%	10/14/2022	10/14/2025	471
178180GQ2	CERTIFICATE OF DEPOSIT	244,000	243,241	4.850%	11/9/2022	11/10/2025	498
05580AM92	CERTIFICATE OF DEPOSIT	248,000	238,601	2.750%	4/22/2022	4/22/2026	661
60425SKA6	CERTIFICATE OF DEPOSIT	249,000	246,692	4.400%	4/24/2023	4/24/2026	663
86158RBA6	CERTIFICATE OF DEPOSIT	249,000	248,136	4.700%	6/30/2023	6/30/2026	730
02007GWJ8	CERTIFICATE OF DEPOSIT	246,000	237,715	3.150%	7/21/2022	7/21/2026	751
682325DH5	CERTIFICATE OF DEPOSIT	250,000	249,590	4.800%	4/6/2023	10/6/2026	828
87165FE42	CERTIFICATE OF DEPOSIT	249,000	228,069	1.100%	11/12/2021	11/12/2026	865
07181JAU8	CERTIFICATE OF DEPOSIT	249,000	249,725	5.000%	11/22/2022	11/23/2026	876
14042TEH6	CERTIFICATE OF DEPOSIT	249,000	228,331	1.250%	12/8/2021	12/8/2026	891
89235MMH1	CERTIFICATE OF DEPOSIT	249,000	228,308	1.250%	12/9/2021	12/9/2026	892
052392CH8	CERTIFICATE OF DEPOSIT	248,000	248,434	4.950%	12/16/2022	12/16/2026	899
25844MAN8	CERTIFICATE OF DEPOSIT	247,000	244,150	4.400%	1/18/2023	1/19/2027	933
856285F63	CERTIFICATE OF DEPOSIT	246,000	227,771	1.800%	1/31/2022	2/1/2027	946
70962LBE1	CERTIFICATE OF DEPOSIT	249,000	229,441	1.700%	2/18/2022	2/18/2027	963
011852AD2	CERTIFICATE OF DEPOSIT	248,000	246,884	4.700%	3/8/2027	3/8/2027	981
02589ABQ4	CERTIFICATE OF DEPOSIT	245,000	227,282	2.000%	3/9/2022	3/9/2027	982
39573LDA3	CERTIFICATE OF DEPOSIT	245,000	227,742	2.100%	3/15/2022	3/15/2027	988
58404DNW7	CERTIFICATE OF DEPOSIT	248,000	234,350	2.800%	4/29/2022	4/29/2027	1,033
254673D94	CERTIFICATE OF DEPOSIT	246,000	234,878	3.200%	5/18/2022	5/19/2027	1,053
07371C6Y0	CERTIFICATE OF DEPOSIT	246,000	233,385	3.000%	6/15/2022	6/9/2027	1,074
38150VCG2	CERTIFICATE OF DEPOSIT	246,000	233,284	3.000%	6/15/2022	6/15/2027	1,080
50625LBN2	CERTIFICATE OF DEPOSIT	249,000	237,822	3.250%	6/15/2022	6/15/2027	1,080
472312AA5	CERTIFICATE OF DEPOSIT	249,000	247,723	4.700%	6/29/2023	6/29/2027	1,094
88413QDN5	CERTIFICATE OF DEPOSIT	245,000	234,012	3.300%	8/19/2022	8/19/2027	1,145
89789AAG2	CERTIFICATE OF DEPOSIT	248,000	247,020	4.700%	3/10/2023	9/10/2027	1,167
32022RSY4	CERTIFICATE OF DEPOSIT	249,000	238,422	3.400%	9/14/2022	9/14/2027	1,171
52470QBV5	CERTIFICATE OF DEPOSIT	249,000	239,132	3.500%	9/23/2022	9/23/2027	1,180
530520AB1	CERTIFICATE OF DEPOSIT	249,000	246,154	4.400%	1/17/2023	1/17/2028	1,296
30191MAJ6	CERTIFICATE OF DEPOSIT	249,000	245,516	4.300%	3/27/2024	3/27/2028	1,366
61690U4M9	CERTIFICATE OF DEPOSIT	250,000	247,363	4.400%	4/20/2023	4/20/2028	1,390
00224TAP1	CERTIFICATE OF DEPOSIT	249,000	247,797	4.550%	4/28/2023	4/28/2028	1,398
67054NBJ1	CERTIFICATE OF DEPOSIT	249,000	249,314	4.700%	5/30/2023	5/30/2028	1,430
29669XAT5	CERTIFICATE OF DEPOSIT	248,000	251,623	5.000%	9/20/2023	9/20/2028	1,543
00782JAC6	CERTIFICATE OF DEPOSIT	248,000	251,663	5.000%	9/27/2023	9/27/2028	1,550
1204	CERTIFICATE OF DEPOSIT	249,000	249,000	4.000%	4/24/2023	4/24/2025	298
1282	CERTIFICATE OF DEPOSIT	250,000	250,000	4.760%	6/21/2023	6/21/2025	356
1285	CERTIFICATE OF DEPOSIT	250,000	250,000	3.900%	4/29/2023	4/29/2028	1,399
1286	CERTIFICATE OF DEPOSIT	250,000	250,000	4.950%	6/25/2023	6/25/2025	360
1309	CERTIFICATE OF DEPOSIT	249,000	249,000	1.800%	2/14/2022	2/14/2027	959
1311	CERTIFICATE OF DEPOSIT	250,000	250,000	3.200%	6/23/2022	6/23/2027	1,088
1314	CERTIFICATE OF DEPOSIT	249,000	249,000	2.000%	7/21/2022	7/20/2024	20
1317	CERTIFICATE OF DEPOSIT	249,000	249,000	4.500%	12/13/2022	12/13/2027	1,261
1324	CERTIFICATE OF DEPOSIT	249,000	249,000	4.250%	1/11/2024	1/11/2029	1,656
1328	CERTIFICATE OF DEPOSIT	249,000	249,000	4.365%	3/25/2024	3/25/2029	1,729
1332	CERTIFICATE OF DEPOSIT	249,000	249,000	4.160%	6/12/2024	6/12/2027	1,077

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
1334	CERTIFICATE OF DEPOSIT	250,000	250,000	3.050%	7/31/2019	7/31/2024	31
1335	CERTIFICATE OF DEPOSIT	249,000	249,000	2.810%	9/11/2019	9/11/2024	73
1336	CERTIFICATE OF DEPOSIT	249,000	249,000	2.800%	9/17/2019	9/17/2024	79
1337	CERTIFICATE OF DEPOSIT	249,000	249,000	2.700%	11/1/2019	11/1/2024	124
1338	CERTIFICATE OF DEPOSIT	273,792	273,792	2.720%	10/15/2019	10/15/2024	107
1339	CERTIFICATE OF DEPOSIT	269,459	269,459	2.250%	12/26/2019	12/26/2024	179
1340	CERTIFICATE OF DEPOSIT	249,000	249,000	2.400%	12/5/2019	12/5/2024	158
1341	CERTIFICATE OF DEPOSIT	249,000	249,000	2.250%	1/8/2020	1/8/2025	192
1342	CERTIFICATE OF DEPOSIT	249,000	249,000	2.250%	1/17/2020	1/17/2025	201
1343	CERTIFICATE OF DEPOSIT	249,000	249,000	2.250%	1/24/2020	1/24/2025	208
1344	CERTIFICATE OF DEPOSIT	249,000	249,000	1.100%	11/18/2023	10/18/2024	110
1345	CERTIFICATE OF DEPOSIT	256,871	256,871	3.150%	6/9/2022	6/9/2027	1,074
1346	CERTIFICATE OF DEPOSIT	249,000	249,000	3.250%	6/21/2022	6/21/2027	1,086
1347	CERTIFICATE OF DEPOSIT	249,000	249,000	3.320%	7/21/2022	7/21/2027	1,116
1348	CERTIFICATE OF DEPOSIT	249,000	249,000	3.200%	7/20/2022	7/20/2027	1,115
1349	CERTIFICATE OF DEPOSIT	249,000	249,000	3.100%	8/30/2022	3/1/2026	609
1350	CERTIFICATE OF DEPOSIT	249,000	249,000	3.800%	10/28/2022	10/28/2025	485
1351	CERTIFICATE OF DEPOSIT	249,000	249,000	4.500%	11/28/2022	11/28/2024	151
1352	CERTIFICATE OF DEPOSIT	249,000	249,000	4.650%	11/28/2023	11/28/2024	151
1353	CERTIFICATE OF DEPOSIT	249,000	249,000	5.150%	12/12/2022	12/12/2027	1,260
1354	CERTIFICATE OF DEPOSIT	249,000	249,000	4.000%	12/22/2022	12/22/2025	540
1355	CERTIFICATE OF DEPOSIT	249,000	249,000	4.850%	2/2/2024	2/2/2025	217
1356	CERTIFICATE OF DEPOSIT	249,000	249,000	4.700%	4/3/2023	4/3/2026	642
1357	CERTIFICATE OF DEPOSIT	249,000	249,000	4.200%	4/12/2023	4/12/2028	1,382
1358	CERTIFICATE OF DEPOSIT	249,000	249,000	4.140%	4/25/2023	4/25/2027	1,029
1359	CERTIFICATE OF DEPOSIT	249,000	249,000	5.000%	6/16/2023	6/16/2025	351
1360	CERTIFICATE OF DEPOSIT	249,000	249,000	4.400%	6/2/2023	6/1/2028	1,432
1361	CERTIFICATE OF DEPOSIT	249,000	249,000	4.950%	9/13/2023	4/13/2025	287
1362	CERTIFICATE OF DEPOSIT	249,000	249,000	4.750%	2/13/2024	2/13/2029	1,689
1363	CERTIFICATE OF DEPOSIT	249,000	249,000	4.000%	3/1/2024	3/1/2028	1,340
1364	CERTIFICATE OF DEPOSIT	249,000	249,000	4.450%	5/8/2024	5/8/2029	1,773
1365	CERTIFICATE OF DEPOSIT	249,000	249,000	4.300%	6/14/2024	6/14/2028	1,445
	TOTALS	$ 147,713,908	$ 144,287,421				

WEIGHTED AVERAGE RATE OF EARNINGS ONE YEAR HISTORY				CURRENT	% OF LIQUID PORTFOLIO	WEIGHTED AVERAGE DAYS TO
6/30/2023	9/30/2023	12/31/2023	3/31/2024	6/30/2024	HOLDINGS	MATURITY
3.187%	3.347%	3.480%	3.430%	3.475%	29.652%	606

Comments:

Portfolio holdings as of June 30, 2024, are in compliance with the current Investment Policy. With 29.652% of the portfolio being held in liquid instruments, the cash needs of the City will be met. The next portfolio report will be calculated for the third calendar quarter ending September 30, 2024, and will be presented during the November 5, 2024 Council meeting.

SUBJECT: Status and Review of Declaration of Local Flood Emergency

SOURCE: City Manager's Office

COMMENT: On March 13, 2023, Mayor Martha A. Flores in conjunction with the Acting City Manager Patrice Hildreth declared the existence of a local emergency within the City of Porterville. Said Declaration was made pursuant to Chapter 9 of the Porterville Municipal Code, and in response to the increasing threat to life and property in the city caused by a series of storm systems striking California and in particular the Porterville area, impacting Success Lake and significantly increasing flows of the Tule River. Pursuant to the California Emergency Services Act (California Government Code 8558 et seq.), emergency declarations must be ratified by the governing body within seven days of being declared. At its Special Meeting on March 17, 2023, the City Council acted to ratify the Declaration of Local Emergency. The Act also requires that the emergency declaration be renewed every sixty (60) days to remain in effect, which at its meeting on April 16, 2024, the Council reviewed and acted to renew the emergency declaration. Staff continues to work with FEMA for resolution of the City's claims and will continue to work to identify a timeline and critical path forward.

Chronology:

On March 10, 2023, due to the volume of water added to Success Lake from significant storm activity, Tulare County Sheriff Mike Bourdreaux issued an Evacuation Warning for both the north and south sides of the Tule River, and the Tulare County Office of Emergency Services (TCOES) established a Temporary Evacuation Point (TEP) and Emergency Shelter in the gymnasium at Porterville College.

On March 15, 2023, due to the water level of Success Lake rising to the point of running over the spillway of the Richard L. Schafer Dam, Sheriff Boudreaux issued a Mandatory Evacuation Order for the residences, businesses and structures between Schafer Dam and Road 284, east of the city of Porterville. On March 18, 2023, due to water levels dropping on the Tule River, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising flood waters, Sheriff Boudreaux issued a Mandatory Evacuation Order for the area between Olive Avenue (Avenue 152) to Avenue 144 and the Friant-Kern Canal and the Tule River and Westwood Street, west of the city of Porterville. On March 25, 2023, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising water levels of the Tule River, City Public Works Department staff took extraordinary measures to protect the neighborhood north of River Springs Drive, avoiding potentially catastrophic flooding of the area.

On March 16, 2023, due to the historic water levels and flows of the Tule River causing erosion to the river banks, Police Chief Jake Castellow issued a Mandatory Evacuation Order for eight residences along Rio Vista Avenue, providing information on the TEP and Emergency Shelter established at Porterville College. City Public Works Department staff took extraordinary measures over the next several days to mitigate and protect the river banks from affecting the residences. On March 24, 2023, Chief Castellow reduced the Mandatory Evacuation Order of the eight residences back to an Evacuation Warning.

On March 19, 2023, due to continued erosion of the banks of the Tule River and the performance of immediate necessary mitigation efforts by Public Works Department personnel, Chief Castellow issued a Mandatory Evacuation Order for both the north and south banks of the Tule River within City limits (not including permanent structures with a designated address), and provided information on the TEP and Emergency Shelter established at Porterville College. The Public Works Department continues to work diligently in shoring the banks of the Tule River.

To accommodate upcoming ceremonies and events in the gymnasium at Porterville College, the TEP and Emergency Shelter at the College closed at noon on April 11, 2023, and thirty (30) individuals were successfully transitioned to the new TEP at the Porterville Army National Guard Armory. A Special Meeting of the Council was scheduled for April 14, 2023, to consider a draft License agreement for the City's temporary use of the State facility. The American Red Cross continued to provide shelter services at the TEP, but transitioned out on May 5, 2023. With the authority granted to the City Attorney and City Manager at its meeting on April 18, 2023, the City and County drafted a Memorandum of Understanding (MOU) in an effort to continue TEP shelter services until May 5, 2023, while the Mandatory Evacuation Order remained in place along the banks of the Tule River in city limits. On April 14, 2023, the County transmitted a letter to the California Governor's Office of Emergency Services (Cal OES), requesting continued financial support for the Armory TEP, which the County reported that Cal OES did not approve. At its meeting on July 11, 2023, the County Board of Supervisors approved the MOU for TEP shelter services between the City and the County, retroactive from April 11, 2023 to May 5, 2023.

Given the lack of continued financial support by Cal OES, the County notified the City that it would discontinue its support of the Armory TEP at noon on May 5, 2023, and American Red Cross would vacate the facility as well, leaving the City alone to determine the function of the Armory TEP after noon on May 5th. The significant threat of local emergency continued to exist with

the estimated over three hundred percent (300%) of normal snow pack in the Sierra Nevada mountains and the potential for a warm storm or heat wave this Spring to again inundate the Tule River, described as a "loaded locomotive at the top of the hill." Given the forecasts of potential widespread flooding damage to west Tulare County and significant portions of Kings County later this Spring and early Summer, Red Cross representatives strongly believe they will be returning to the Armory TEP and other Tulare County locations (e.g. Porterville Developmental Center) to assist those displaced from homes due to flooding. Until such time that Cal OES makes the determination that emergency conditions again exist in Tulare County, the Council was left to determine if local emergency conditions existed to continue operating the Armory TEP, which expenditures would not be reimbursable given the lack of approval by Cal OES.

Given the continued mandatory evacuation order along the Tule River in city limits and the legal implications of the Martin v. Boise federal 9th Circuit Court of Appeals decision (2018), and the announced departure of the American Red Cross and County support at noon on May 5, 2023, City staff developed an operational plan for the Armory TEP, cognizant of the lack of federal and State reimbursement of costs. As of April 27, 2023, eighteen (18) individuals were receiving shelter services at the Armory TEP, with most individuals only at the facility in the evening. Given the limited daytime TEP population, and daily meal services provided at the nearby Porterville Welcome Center, staff recommended to limit the Armory TEP hours from 7:00 P.M. to 7:00 A.M. daily, providing temporary staffing of two individuals (including a security guard). Temporary staffing had been quoted at $25 per hour, for a daily expense of $600 (or $18,000 per month). At its meeting on May 2, 2023, the Council authorized the continued operation of the Armory TEP for a 12-hour operational period over the evenings, and also directed that the Armory restrooms and shower facilities be used by the individuals at the TEP, which although not ADA-compliant, are not required for non-reimbursable shelter activities while under a Declaration of Local Emergency. The contract for the on-site mobile shower and portable restroom facilities that are ADA-compliant expired on May 11, 2023, which the rental cost was approximately $18,000 per month. However, the City Attorney recommended maintaining a single ADA-portable restroom at the facility. Beginning at noon on May 5, 2023, the City assumed administrative and financial responsibility for the Armory, which has established operational hours of 8:00 P.M. to 8:00 A.M. and averaged twenty (20) individuals each evening (please see attached daily census).

On May 4, 2023, the City received an updated draft License agreement for the use of the Armory, proposing a 1-year lease for exclusive use by the City effective May 5, 2023, through May 4, 2024. The draft agreement proposes no fee for the use of the facility, but that the City assume responsibility for the facility's utilities. On Monday, May 8th, the last remaining Army personnel left the facility, with the City now having complete exclusive use of the facility. At its meeting on May 16, 2023, the Council approved the updated draft License agreement for the 1-year exclusive use of the Armory.

On March 31, 2023, Governor Newsom issued Executive Order N-6-23 to support Tulare Lake Basin flood response, which streamlines State preparation, response and recovery actions and supports local flood response efforts and assist in preparing communities for the impacts of snowmelt runoff in the months ahead.

On April 3, 2023, President Biden granted a Major Disaster Declaration for the State of California, triggering the release of Federal funds to help individuals and communities recover from Severe Winter Storms, Straight-line Winds, Flooding, Landslides and Mudslides that occurred February 21, 2023, and continuing. Monterey and Tulare counties were designated in the Major Disaster Declaration for both Individual and Public Assistance, as well as Hazard Mitigation. On July 14, 2023, the Federal Emergency Management Agency (FEMA) made the determination to close the incident period effective July 10, 2023. Although the incident period has been closed, businesses and individuals may still apply for federal disaster assistance through September 1, 2023.

On May 17, 2023, Governor Newsom issued Executive Order N-7-23 to support Tulare Lake Basin flood response, which extends flood diversion and groundwater recharge flexibilities implemented for the Tulare Lake Basin, including Kern River floodwater to be allowed into the California Aqueduct.

On August 4, 2023, Governor Newsom issued Executive Order N-10-23 to streamline levee repairs and debris removal to help local communities recover from flooding and prepare for the next wet season.

At its meeting on April 4, 2023, the Council approved Resolution No. 15-2023, which authorized the appropriation of funds from the Catastrophic/Emergency Reserve Fund for the costs associated with the response to the local emergency including personnel, equipment, services and other necessary expenditures. At its meeting on April 18, 2023, the Council approved two emergency expenditures that exceeded $5,000 in their acquisition, which included additional Water Rescue Equipment for the Fire Department ($6,417.70) and the 30-day rental of two mobile shower/restroom units ($13,151) for the Armory TEP due to the facility's restrooms and showers not being compliant with the Americans with Disabilities Act (ADA). At its meeting on May 2, 2023, the Council approved two additional emergency expenditures that exceeded $5,000 in their acquisition, which included a trailer-mounted 6" dewatering and sewage pump ($77,396.67), and local trucking services of riprap material ($5,436.00), both for the Public Works Department.

In support of two private personnel providing nightly security at the Armory as it continues to function as a temporary evacuation point and shelter, City staff has secured TopKnotch Security, Inc. as the security services provider. TopKnotch provided an agreement for security services for approximately $18,000 per month (2 personnel at $25/hour for 12 hours per day for 30 days per month), which the Council approved at its meeting on June 6, 2023. Due to violations by TopKnotch Security of its agreement with the City for security services, City staff terminated the agreement effective immediately on Friday,

July 14, 2023, causing the Police Department to provide security services at the Armory on Friday, July 14 through Sunday, July 16, 2023. Beginning on Monday, July 17, 2023, Good Guard Security, Inc. began providing security services, which at its meeting on July 18, 2023, the Council approved an agreement for security services for approximately $21,000 per month (2 personnel at $28.95/hour for 12 hours per day for 30 days per month).

RECOMMENDATION: That the City Council receive the report of status and review of the Declaration of Local Emergency and determine the need exists to continue said Declaration.

ATTACHMENTS:

1. Declaration of Local Emergency - March 13, 2023
2. Resolution No. 11-2023
3. Rio Vista Avenue Mandatory Evacuation Order - March 16, 2023
4. Tule River Banks Mandatory Evacuation Order - March 19, 2023
5. Governor Newsom Executive Order N-6-23
6. Governor Newsom Executive Order N-7-23
7. Governor Newsom Executive Order N-10-23
8. Federal Disaster Declaration Fact Sheet - April 3, 2023
9. License to Use State Military Property - April 14, 2023
10. City and County Memorandum of Understanding for Shelter Support
11. County of Tulare CalOES Shelter Support Request Letter - April 14, 2023
12. License to Use State Military Property - May 16, 2023
13. Federal Disaster Declaration Notice - July 14, 2023
14. Resolution No. 15-2023
15. Rescue Source & Rescue 3 Invoice: Water Rescue Equipment
16. Royal Restrooms Invoice: Mobile Shower-Restroom Units
17. Rain for Rent Pump Invoice
18. Mike Clark Trucking Invoice
19. TopKnotch Security, Inc. Agreement
20. Good Guard Security, Inc. Agreement
21. Municipal Code Chapter 9 - Civil Defense and Disaster
22. California Government Code 8558
23. Armory Daily Census

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager

DECLARATION OF LOCAL EMERGENCY

WHEREAS, severe winter storm systems have struck California and in particular, the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River; and

WHEREAS, under the provisions of the City Charter, I find that conditions of extreme peril to the safety of persons and property exist due to these storms; and

WHEREAS, I find that the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Porterville and may require the combined forces of mutual aid and/or unified command to appropriately respond.

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, in accordance with the authority vested in me by the Porterville City Charter, **HEREBY DELCARE A LOCAL EMERGENCY** to exist in the City of Porterville.

IT IS HEREBY ORDERED that the City's Emergency Management Team under the direction of Fire Chief/Incident Commander Bryan Cogburn has the authority to procure any and all resources deemed necessary in this event.

DECLARED, this 13th day of March, 2023.

Martha A. Flores

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

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

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

CITY OF PORTERVILLE * INCORPORATED MAY 7, 1902 *

By: _____

Fernando Gabriel-Moraga, Deputy City Clerk

Police Department
350 North "D" Street
Porterville, CA 93257
(559) 782-7400/FAX (559) 784-1070
www.PortervillePolice.com

Jake Castellow
Chief of Police

March 16th, 2023

This is a message from Tulare County & the City of Porterville. Due to the recent storm events, and the water levels in the Tule River, there is erosion to the bank of the river. An Evacuation order has been issued for all residences, businesses, and structures that are on the south side of Rio Vista Ave with the addresses of **191 Rio Vista Avenue, 201 Rio Vista Avenue, 211 Rio Vista Avenue, 221 Rio Vista Avenue, 231 Rio Vista Avenue, 241 Rio Vista Avenue, and 245 Rio Vista Avenue.**

An evacuation order, also known as a mandatory evacuation, means that all residents and visitors should **leave now** before the water causes unsafe conditions for the residence. If you are unable to evacuate and require assistance, please call 9-1-1. For additional resources or information, please call 2-1-1. Please refer to the map on the Tulare County website, emergencies page, at TulareCounty.CA.gov/emergencies.

A Temporary Evacuation point has been set up at Porterville College, 100 E College Avenue. Thank you.

Jake Castellow
Chief of Police

Police Department
350 North "D" Street
Porterville, CA 93257
(559) 782-7400/FAX (559) 784-1070
www.PortervillePolice.com

Jake Castellow
Chief of Police

March 19, 2023

This is a message from Tulare County & the City of Porterville. Due to the recent storm events, there is erosion to the banks of the Tule River.

An **Evacuation Order** has been issued for the north bank and south bank of the Tule River, from Westwood Street, to the Plano bridge, but does not include the south bank from Westwood Street, east to the bridge of State Route 65. This evacuation order does not include permanent structures with a designated address, other than those for which a previous evacuation order has been issued.

An evacuation order, also known as a mandatory evacuation, means that all residents and visitors should leave immediately due to the unsafe conditions of the river banks. If you are unable to evacuate and require assistance, please call 9-1-1. For additional resources or information, please call 2-1-1. Please refer to the map on the Tulare County website, emergencies page, at TulareCounty.CA.gov/emergencies.

A Temporary Evacuation point has been set up at Porterville College, 100 E College Avenue.

Jake Castellow

Chief of Police

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-6-23

WHEREAS on March 1, 2023, March 8, 2023, March 12, 2023, March 14, 2023, and March 28, 2023, I proclaimed a State of Emergency to exist in 47 counties, cumulatively, as a result of a series of ongoing winter storms that initially struck California beginning in late February and continue to significantly impact the counties identified in my Proclamations; and

WHEREAS the State has experienced over a dozen atmospheric rivers since December 2022, resulting in compounding and cumulative impacts across California, including what are expected to be record amounts of snow in the Sierra Nevada, in particular in the southern Sierra, and current and forecasted precipitation are expected to add to historic snowpack levels already composed of several million acre-feet of snow water content; and

WHEREAS reservoirs into which the Sierra snowpack runoff would flow are already impacted by runoff, which is expected to greatly exceed available storage capacity in the reservoirs in and around the Tulare Lake Basin and the San Joaquin River Basin, and much of the ground in the area has reached saturation due to the series of ongoing winter storms; and

WHEREAS the Tulare Lake Basin is the terminal point for the Kings, Kaweah, Tule, and Kern Rivers, and several smaller streams, meaning that water from additional expected rains and Sierra snowpack runoff that cannot be stored in reservoirs or absorbed into the ground will flow into the basin; and

WHEREAS recent storms have already caused flooding in the Tulare Lake Basin, leading to emergency rescues and evacuation orders in Allensworth, Alpaugh, and other communities in Tulare and Kings Counties, and leading to dozens of levee breaks and local agencies directing strategic cuts to canals and levees to prevent further flooding of communities; and

WHEREAS runoff from the snowpack caused by the winter storms could result in flood conditions in the Tulare Lake Basin resembling those last experienced in the historic floods of 1969 and 1983, following historic snowpacks in those years; and

WHEREAS local flood control districts and other local governments generally have flood control responsibility in the Tulare Lake Basin, but state agencies such as the California Department of Forestry and Fire Protection (CAL FIRE), the California Department of Water Resources, and the Governor's Office of Emergency Services are actively engaged in supporting this local effort, and state agencies will continue to provide technical advice and other resources and support as needed, with a particular priority on protecting the lives and health of local communities; and

WHEREAS stretches of the San Joaquin River have been or are at flood stage this spring, river stages are expected to stay high throughout the spring as snowpack melts, and multiple levee repairs are underway on the lower San Joaquin River; and

WHEREAS the Tulare Lake Basin is hydrologically connected to the San Joaquin River Basin and that connection has the potential to exacerbate the flood risk in the San Joaquin River Basin, and so further emergency response efforts may become necessary in the San Joaquin River Basin as well; and

WHEREAS heavy accumulation of snowfall on the roof of Bear Valley Elementary School, located in Alpine County, currently renders instructional space unsafe for use; and

WHEREAS frequent flooding and flood evacuation orders have resulted in school closures and low student attendance in Pajaro Middle School, Hall District Elementary School and Ohlone Elementary, located in Pajaro Valley Unified School District in Santa Cruz County; and

WHEREAS it is critical that displaced students are back in school facilities as quickly as possible to ensure continuity in education; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to respond to and mitigate the effects of these storms; and

WHEREAS on March 9, 2023, I requested a Presidential Emergency Declaration related to these late winter storms, which was expeditiously approved by President Joseph R. Biden, Jr.; and

WHEREAS on March 15, 2023, I requested the addition of 9 counties to the existing Presidential Emergency Declaration related to these late winter storms, which was expeditiously approved by the President; and

WHEREAS on March 28, 2023, I also requested the President issue a Major Disaster Declaration related to these late winter storms for counties that met the validated damage threshold; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay the mitigation of the effects of these ongoing winter storms.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All provisions contained in the above-referenced Proclamations of a State of Emergency shall remain in full force and effect.

2. To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding in the Tulare Lake Basin, Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter, are

suspended for activities that meet all of the requirements in Paragraph 3.

3. The suspension created by Paragraph 2 shall apply to floodwater diversion, debris removal, and levee repair and breech in the Tulare Lake Basin, on the condition that the actions cease when the flood conditions have abated to the point there is no longer flooding outside of defined streambeds and levees. Additionally, the suspension created by Paragraph 2 shall apply to floodwater diversion only if all of the following additional conditions are met:

    a. The diversion of floodwater from the Tulare Lake Basin or rivers or streams flooding the Tulare Lake Basin must occur between March 31, 2023, and August 1, 2023, for flood management purposes.

    b. For diversions directly from rivers or streams, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.

    c. For diversion of floodwaters in the Tulare Lake Basin (that is, waters no longer contained within a defined streambed or levee), a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that areas from which the floodwaters are diverted are either at imminent risk of flooding or already flooded, with potential or existing inundation of land, roads, or structures.

    d. Any water diverted is not diverted to and will not be applied to any area that has not been in active irrigated agricultural cultivation within the past three years, including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purposes of groundwater recharge or managed wetlands.

4. In addition to the mandatory conditions set forth in Paragraph 3, any person conducting planned levee breaches or controlled inundation to prevent further catastrophic flooding pursuant to the suspension created by Paragraph 2 should take care, wherever feasible, to protect above-ground infrastructure and drinking water and wastewater infrastructure such as drinking water well field sites, wastewater discharge ponds, and other water resources that are necessary for the protection of human health and the recovery of impacted communities.

5. For purposes of conducting emergency flood preparation and response activities, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Secretary of the Natural Resources Agency concurs that local action is required, and (c) permits necessary to carry out actions under (a) and (b), Public

Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent necessary to address flood impacts in the Tulare Lake Basin.

6. To support adequate state staffing for all state agencies and departments with an assigned response and/or recovery role related to flooding in the Tulare Lake Basin, consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. All other restrictions must be adhered to for retired annuitants. The Director of the California Department of Human Resources must be notified of any individual employed in state government pursuant to these suspensions. The suspension of statutes identified in this Paragraph shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the flooding in the Tulare Lake Basin. Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.

7. The limitation for the period of employment for State Personnel Board emergency appointments, as provided in Government Code section 19888.1, is suspended for positions required for emergency response and/or recovery operations related to flooding in the Tulare Lake Basin. The requirements and period of employment for such appointments will be determined by the Office of Emergency Services but shall not extend beyond the termination date of the State of Emergency.

8. To the extent the Alpine County Office of Education and Alpine County Unified School District are required to use temporary facilities such as the Alpine County Public Library due to extraordinary snowpack on the roof of Bear Valley Elementary School, rendering instructional space unsafe, the requirements of Education Code sections 17280, et seq., 17365, et seq., and Government Code sections 4453 and 14963 are suspended with respect to those temporary facilities. The requirements of the California Building Code (codified in Title 24 of the California Code of Regulations), as adopted and enforced by the local building and fire agencies with jurisdiction over the area, shall apply to these temporary facilities.

9. To the extent the Alpine County Office of Education and Alpine County Unified School District are required to temporarily use buildings, as defined in the California Building Code (California Code of Regulations, Title 24, Part 2, Chapter 2, section 202), such as the Alpine County Public Library due to extraordinary snowpack on the roof of the Bear Valley Elementary School, rendering instructional space unsafe, local planning and zoning regulations shall be suspended to allow immediate occupancy of such buildings for use as public school facilities. In addition, the requirements of the California Building Code, as adopted and enforced by the local building and fire agencies with jurisdiction over the area, shall apply, except that the requirements

relating to Change of Use or Occupancy Classification in the California Building Code (California Code of Regulations, Title 24, Part 2, Chapter 1, section 111) shall not trigger immediate code upgrades, and a Certificate of Occupancy shall not be withheld for such immediate and temporary use of the facilities as a public school, as long as such facilities met building code requirements at the time of their construction, are accessible to individuals with disabilities, and are judged safe for use by the local building official.

10. Education Code section 60641(a) requiring that all pupils be administered academic assessments in mathematics, English language arts, and science, as provided for in Education Code section 60640, is suspended for the 2022-2023 school year for Pajaro Middle School, Hall District Elementary School and Ohlone Elementary School of the Pajaro Valley Unified School District, if a federal waiver is approved by the United States Department of Education.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 31st day of March 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, Ph.D.
Secretary of State

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-7-23

WHEREAS on March 1, March 8, March 12, March 14, March 28, April 20, and May 15, 2023, I proclaimed a State of Emergency to exist in 52 counties, cumulatively, as a result of a series of winter storms that initially struck California beginning in late February and continue to significantly impact the counties identified in my Proclamations; and

WHEREAS on March 31, 2023, I issued Executive Order N-6-23 to further bolster the emergency response to this Late Winter Storms event, particularly in the Tulare Lake Basin that continues to be plagued by historic flooding; and

WHEREAS on April 21, May 10, July 8, and October 19, 2021, I proclaimed States of Emergency to exist due to drought conditions; and

WHEREAS on March 10, 2023, I issued Executive Order N-4-23 to address evolving drought conditions due to the winter storms and to mitigate flooding by facilitating groundwater recharge; and

WHEREAS due to the complexity of the impacts from over a dozen Atmospheric River events since December 2022, including the accumulation of a record snowpack in the Sierra Nevada that is likely to yield record snowmelt runoff, especially in the Tulare Lake Basin, I previously issued Executive Orders identified herein to respond to and recover from the winter storms, and those orders now require updating in-light of the most recent runoff conditions and the State's more robust and recent modeling of likely flood impacts; and

WHEREAS the Tulare Lake Basin includes portions of Fresno, Kings, Tulare, and Kern counties and is the terminal point for the Kaweah, Tule, and Kern Rivers as well as a portion of the Kings River and several smaller streams, meaning that water from Sierra snowpack runoff that cannot be stored in reservoirs or absorbed into the ground will flow into the basin; and

WHEREAS the Tulare Lake Basin is hydrologically connected to the San Joaquin River Basin via the James Bypass and Fresno Slough and that connection has the potential to exacerbate the flood risk in the San Joaquin River Basin, and so further emergency response efforts may become necessary in the San Joaquin River Basin; and

WHEREAS stretches of the San Joaquin River, Chowchilla and Eastside Bypasses, San Joaquin River mainstem and tributaries (Fresno River, Chowchilla River, Merced River, Stanislaus River, and Tuolumne River, hereafter, San Joaquin River Tributaries), and Fresno Slough/James Bypass have been or are at flood stage this spring, river stages are expected to stay high or increase throughout the spring and summer as snowpack melts, and multiple levee repairs are underway on the lower San Joaquin River; and

WHEREAS the Kern River – California Aqueduct Intertie exists to move floodwaters safely from the Kern River into the California Aqueduct, and the Kern River Watermaster on May 10, 2023, requested the use of the Intertie to prevent Kern River floodwater from exacerbating flooding in the Tulare Lake Basin, and state agencies have begun actions to safely enable the diversion of these flood flows; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay the mitigation of the effects of these ongoing winter storms.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All provisions contained in the above-referenced Proclamations of a State of Emergency and Executive Orders shall remain in full force and effect except as modified in this Order.

2. Paragraph 2 of Executive Order N-6-23 is withdrawn and replaced by the following:

   To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding in the Tulare Lake or San Joaquin River Basins, the following are suspended for activities that meet the requirements in Paragraph 3.

   a. Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter; and

   b. Division 13 (commencing with Section 21000) of the Public Resources Code, and regulations adopted pursuant to that division.

3. Paragraph 3 of Executive Order N-6-23 is withdrawn and replaced by the following, except that any diversion in the Tulare Lake Basin that is operational as of June 1, 2023, may continue to operate under Paragraph 3 of Executive Order N-6-23 until August 31, 2023:

   The suspensions created by Paragraph 2 shall apply to floodwater diversion, floating vegetation and debris removal, and levee repair and breach, in the Tulare Lake or San Joaquin River Basins, on the condition that the actions cease when the flood conditions have abated to the point there is no longer a risk of, or existing, flooding causing inundation of land, roads, or structures at or downstream of the point of diversion.

4. Additionally, the suspensions created by Paragraph 2 shall apply to floodwater diversion only if all the following additional conditions are met:

   a. Any diversion of floodwaters directly from the (i) Tulare Lake Basin or rivers or streams or bypasses flooding the Tulare Lake Basin or (ii) the San Joaquin River or San Joaquin River tributaries (including Fresno Slough and James Bypass) or San Joaquin River bypasses must occur between March 31, 2023, and August 31, 2023, for flood management purposes.

b. With respect to diversions of floodwaters directly from rivers or streams or bypasses, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice, that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.

c. With respect to diversions of floodwaters that are no longer contained within a defined streambed or levee, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that areas from which the floodwaters are diverted are either at imminent risk of flooding or already flooded, with potential or existing inundation of land, roads, or structures, or are on lands inundated as a result of actions within subparagraph (a).

d. Any floodwater diverted is not diverted to and will not be applied to:

    i. Any barn, ponds, or lands to which manure or waste from an animal facility that generates waste from the feeding and housing of animals for more than 45 days per year in a confined area that is not vegetated are applied;

    ii. Any agricultural field where pesticide or fertilizer application has occurred in the prior 30 days or in the period prohibited by applicable law, whichever is longer;

    iii. Any area that could cause damage to critical levees, infrastructure, wastewater and drinking water systems, drinking water wells or drinking water supplies, or exacerbate the threat of flood and other health and safety concerns; or

    iv. Any area that has not been in active irrigated agricultural cultivation within the past three years including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purposes of groundwater recharge or managed wetlands.

e. With respect to diversions of floodwaters from waters tributary to the Sacramento and San Joaquin River Delta as defined in Water Code section 12220 (Delta), water rights holders are not making releases of stored water or reoperating facilities to provide flow for the purposes of meeting water quality control plan or endangered species requirements in the Delta at the time of the diversion.

f. With respect to diversions of floodwaters directly from the San Joaquin River or San Joaquin River Tributaries, the diversion uses:

    i. either existing diversion infrastructure or temporary pumps;

ii. no new permanent infrastructure or permanent construction; and

iii. simple screens installed on temporary pump intakes to minimize the impacts of diversion to salmon and other aquatic life.

5. Paragraph 4 of Executive Order N-6-23 is withdrawn and replaced by the following:

   In addition to the mandatory conditions set forth in Paragraph 3, any person conducting planned levee breaches or controlled inundation to prevent further catastrophic flooding pursuant to the suspensions created by Paragraph 2 should, wherever feasible, protect above-ground infrastructure and water sources that are necessary for the protection of human health and the recovery of impacted communities.

6. Paragraph 5 of Executive Order N-6-23 is withdrawn and replaced by the following:

   For purposes of conducting emergency flood preparation and response activities beyond those provided for in Paragraphs 2 and 3, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Secretary of the Natural Resources Agency concurs that local action is required, and (c) permits necessary to carry out actions under (a) and (b), Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent necessary to address flood impacts in the Tulare Lake or San Joaquin River Basins.

7. Paragraph 6 of Executive Order N-6-23 is withdrawn and replaced by the following:

   To support adequate state staffing for all state agencies and departments with an assigned response and/or recovery role related to flooding in the Tulare Lake or San Joaquin River Basins, consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. All other restrictions must be adhered to for retired annuitants. The Director of the California Department of Human Resources must be notified of any individual employed in state government pursuant to these suspensions. The suspension of statutes identified in this Paragraph shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the flooding in the Tulare Lake Basin. Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.

8. Paragraph 6 of Executive Order N-6-23 is withdrawn and replaced by the following:

   The limitation for the period of employment for State Personnel Board

emergency appointments, as provided in Government Code section 19888.1, is suspended for positions required for emergency response and/or recovery operations related to flooding in the Tulare Lake or San Joaquin River Basins. The requirements and period of employment for such appointments will be determined by the Office of Emergency Services, but shall not extend beyond the termination date of the State of Emergency.

9. Paragraph 3 of Executive Order N-4-23 is withdrawn and replaced by the following, except that any diversion that is operational as of June 1, 2023, may continue to operate under Paragraph 3 of Executive Order N-4-23 until August 31, 2023:

   The suspensions created by Paragraph 2 of Executive Order N-4-23 shall apply to diversions of floodwaters as to which all the following conditions are met:

   a. Diversions of floodwaters directly from rivers, streams, or bypasses must occur between March 10, 2023, and August 31, 2023, for flood management and associated groundwater recharge.

   b. Diversions of floodwaters no longer contained within a defined streambed must prevent imminent risk of flooding or relieve flooding pressure from land, roads, or structures, already inundated, including as a result of actions within subparagraph (a).

   c. A local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice, that waters at or downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.

   d. The diversions cease when the flood conditions have abated to the point there is no longer a risk of, or existing, flooding causing inundation of land, roads, or structures at or downstream of the point of diversion.

   e. Any floodwater diverted is not diverted to and will not be applied to:

      i. Any barn, ponds, or lands, to which manure or waste from an animal facility that generates waste from the feeding and housing of animals for more than 45 days per year in a confined area that is not vegetated are applied;

      ii. Any agricultural field where pesticides or fertilizer application has occurred in the prior 30 days or in the period prohibited by applicable law, whichever is longer;

      iii. Any area that could cause damage to critical levees, infrastructure, wastewater and drinking water systems, drinking water wells or drinking water supplies, or exacerbate the threat of flood and other health and safety concerns; or

iv. Any area that has not been in active irrigated agricultural cultivation within the past three years, including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purpose of groundwater recharge or managed wetlands.

f. With respect to diversions of floodwaters from waters tributary to the Sacramento and San Joaquin River Delta (Delta) as defined in Water Code section 12220 (Delta), water rights holders are not making releases of stored water or reoperating facilities to provide flow for the purposes of meeting water quality control plan or endangered species supporting regulatory requirements in the Delta at the time of the diversion.

g. The diversion uses:

i. Either existing diversion infrastructure or temporary pumps;

ii. Existing groundwater recharge locations, where available;

iii. No new permanent infrastructure or permanent construction; and

iv. Simple screens installed on temporary pump intakes to minimize the impacts of diversion to salmon and other aquatic life.

h. The person or entity availing itself of suspensions created by Paragraph 2 of Executive Order N-4-23 files a preliminary report with the Water Board and any applicable Groundwater Sustainability Agency (GSA) or GSAs for the basin, no later than 14 days after initially commencing diversion of flood flows for groundwater recharge, and a final report with the Water Board and any applicable GSA or GSAs for the basin no later than September 15, 2023. The preliminary and final reports required by this subparagraph shall:

i. Identify the person or entity utilizing the suspensions created by Paragraph 2 of Executive Order N-4-23;

ii. Identify the triggering condition from subparagraph (c) of this paragraph;

iii. Provide the GPS coordinates for the point of diversion, a map identifying the approximate area inundated by the flood flows, and the corresponding assessor parcel number(s);

iv. Identify the time when diversions of floodwaters to groundwater recharge commenced, and for final reports, when diversions ceased; and

v. Provide an estimate, as of the report's date, of the amount of floodwaters diverted utilizing the suspensions created by Paragraph 2 of Executive Order N-4-23.

The Water Board shall post on its internet website all reports received pursuant to this subparagraph.

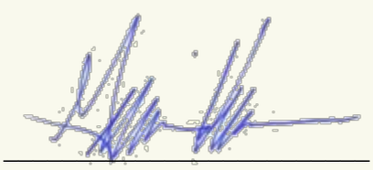
10. To mitigate the effects of the Late Winter Storms, including by reducing the risks of local catastrophic flooding in the Tulare Lake Basin, Part 2 (commencing with section 1200) of division 2 of the Water Code, exclusive of section 1225, and regulations adopted pursuant to that part, are suspended for diversions of flood flows into the Kern Intertie and ultimately into the California Aqueduct until August 31, 2023, such that applications and permits for water rights shall not be required for such diversions, nor shall such diversions create new water rights or modify existing water rights, to the extent applications or permits would have been required or water rights would have been affected absent this suspension.

11. The Department of Water Resources and State Water Resources Control Board shall (i) communicate to water systems and others any additional information or actions necessary for those systems and others to monitor and be prepared for the addition of Kern River floodwater in the California Aqueduct, and (ii) collaborate on long-term actions that align water rights and flood response, including actions that maximize in-basin groundwater recharge.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of May 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY WEBER, PH.D
Secretary of State

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-10-23

WHEREAS the State has experienced over thirty atmospheric rivers since December 2022, resulting in compounding and cumulative impacts across California, including record or near record amounts of snow in the Sierra Nevada; and

WHEREAS on January 4, 2023, I proclaimed a State of Emergency to exist in California as a result of severe winter storms related to an atmospheric river event beginning on December 27, 2022; and

WHEREAS on March 1, March 8, March 12, March 14, March 28, April 20, May 15, and June 16, 2023, I proclaimed a State of Emergency to exist in 53 counties, cumulatively, as a result of a series of winter storms that initially struck California beginning in late February and continue to significantly impact the counties identified in my Proclamations; and

WHEREAS on April 21, May 10, July 8, and October 19, 2021, I proclaimed States of Emergency to exist due to drought conditions, and on February 13, 2023, I issued Executive Order N-3-23 and on March 10, 2023, I issued Executive Order N-4-23, to address evolving drought conditions due to the 2022-2023 Winter Storm Events and mitigate flooding by facilitating groundwater recharge; and

WHEREAS on March 31, 2023, I issued Executive Order N-6-23 to bolster the emergency response to the 2022-2023 Winter Storm Events, particularly in the Tulare Lake Basin that continues to be affected by historic flooding; and

WHEREAS on May 17, 2023, and on June 16, 2023, I issued Executive Order N-7-23 and N-9-23, respectively, to further bolster the emergency response to the 2022-2023 Winter Storm Events, in both the San Joaquin River and the Tulare Lake Basins; and

WHEREAS there remains a need for removal of floating vegetation and debris throughout impacted counties, including stretches of the Salinas River mainstem and tributaries, stretches of the Pajaro River mainstream and tributaries, and coastal streams along the Central Coast region from Santa Cruz County to Ventura County, and that removal must expeditiously occur before the next rainy season begins in fall 2023 in order to mitigate the risk of additional flooding and allow for continued recovery efforts; and

WHEREAS emergency repairs, debris removal, sediment removal, and vegetation management within waters of the United States are subject to federal approvals from the U.S. Army Corps of Engineers pursuant to section 404 of the federal Clean Water Act (33 U.S.C. § 1344), and the State Water Resources Control Board (Water Board) has previously issued state water quality certifications corresponding to the Corps Regional General Permits 8, 5, or 63 for Repair and Protection Activities in Emergency Situations and the Nationwide Permit 3 for Maintenance Part (a) for repair, rehabilitation, or replacement of structure of fill (collectively Emergency or Repair Corps Orders), which provide a

pathway for emergency activities in many instances (hereinafter referred to as Water Board Emergency or Repair 401 Certification Orders); and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay the mitigation of the effects of the 2022-2023 Winter Storm Events.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All provisions contained in the above-referenced Proclamations of a State of Emergency and Executive Orders shall remain in full force and effect, except as modified or withdrawn in subsequent proclamations and orders.

2. To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding, with respect to activities that take place in the San Joaquin River and tributaries, the Tulare Lake Basin and tributaries, including, but not limited to, the Kings, Tule, Kaweah, and Kern Rivers, the Salinas River and tributaries, the Pajaro River and tributaries, and other coastal streams between the Pajaro River (Santa Cruz/Monterey/San Benito Counties), to and including the Ventura River (Santa Barbara/Ventura County), but excluding tributaries to such other coastal streams, the following are suspended, subject to the conditions in Paragraphs 3 and 4, as applicable:

    a. Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter.

    b. Certain statutes, rules, and requirements applicable to activities under the jurisdiction of the Water Board and the California Regional Water Quality Control Boards (Regional Water Boards) as follows:

        i. For an activity in a water of the United States that receives an authorization by the U.S. Army Corps of Engineers pursuant to section 404 of the Clean Water Act, any enrollment criteria that may limit the permitting of the activity under a Water Board Emergency or Repair 401 Certification Order, including criteria limiting the scope to only the Emergency or Repair Corps Orders, conditioned on compliance with all other provisions set forth in the relevant Water Board Emergency or Repair 401 Certification Order.

ii. For an activity not covered by paragraph 2.b.i, sections 13260 and 13263 of the Water Code, and regulations adopted pursuant to those sections.

c. Division 13 (commencing with section 21000) of the Public Resources Code, and regulations adopted pursuant to that division.

3. The suspensions in Paragraph 2 apply only to (i) the repair or replacement of existing levees, weirs, and other conveyance and flood-control infrastructure, (ii) debris removal, (iii) sediment removal, and (iv) vegetation management, provided that the activity meets all of the following conditions, as applicable:

a. The activity is necessary to respond to conditions caused by the 2022-2023 Winter Storm Events and is necessary to avoid future damage from high streamflow events in the upcoming rainy season.

b. Removal of sediment or vegetation or both serves to either reestablish a functional low flow channel or reestablish channel capacity, or clear sediment and debris from the river channel near structures such as bridges.

c. Removal of sediment or vegetation or both is carried out in a manner that (i) does not involve excavation resulting in the establishment of a new low flow channel that did not exist prior to the 2022-2023 Winter Storm Events, (ii) maintains the natural contour of the stream, (iii) maintains the downstream slope of the stream flow line, and (iv) does not impede fish passage or cause fish stranding.

d. Removal of sediment or vegetation or both is limited to portions of the channel that are dry.

e. No more than 30% of the total native vegetation within the stream channel and bank is removed from each river mile.

f. Levees are either set back from their previous location (increasing channel capacity) or are rebuilt as configured prior to the 2022-2023 Winter Storm Events.

g. The activity does not involve disposal or placement of flood-delivered sediments into waters of the state or at locations or in a manner where sediments may be washed into waters of the state by rainfall or runoff.

h. The activity minimizes impacts to beneficial uses of the water body.

i. The activity is completed by November 1, 2023.

4. The suspensions in Paragraph 2.b.ii apply only if the activity meets all of the following further conditions:

a. The project proponent shall provide notice to the appropriate Regional Water Board as early as possible, and no less than forty- eight (48) hours prior to initiating the project, that includes the scope and location of the activity, a description of the infrastructure, debris, sediment, and vegetation conditions relevant to the activity, with representative photos, and, as applicable, a description of how the activity serves to establish a functional low flow channel or reestablish channel capacity.

b. Following any accidental discharge of a reportable quantity of a hazardous material (as defined in Health and Safety Code section 25501), sewage, or an unknown material, the project proponent shall follow the notification and reporting procedures set forth in condition A.3.c of Water Quality Order No. 2019-0044-Exec Clean Water Act Section 401 Water Quality Certification and Order.

c. The activity shall be undertaken so as to avoid causing a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in any applicable Regional Water Board or Water Board water quality control plan or state policy for water quality control, but in the event of a violation of water quality standards, the project proponent shall eliminate the source of any such discharge as soon as practicable. Water diversion activities must not result in the degradation of beneficial uses or exceedances of water quality objectives of any of the receiving waters. Any temporary dam or other constructed obstruction must only be built from materials that will cause little or no siltation (e.g., clean gravel). Normal flows must be restored to the affected water immediately upon completion of work at that location.

d. If there is a violation of a water quality standard, the project proponent shall notify the applicable Regional Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means. This notification must be followed within three (3) working days by submission of a written report that includes the cause of the violation; the location shown on a map; and the period of the noncompliance including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results.

e. If surface water is present, the project proponent shall conduct continuous visual surface water monitoring to detect accidental discharge of construction-related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete).

f. The project proponent shall keep all repairs and construction to the minimum necessary to alleviate the emergency caused by the 2022- 2023 Winter Storm Events and limited to in-kind replacement or refurbishment of on-site features, although the project may undertake minor upgrading if bioremediation or other environmentally sensitive solutions are used.

g. The project proponent shall implement effective best management practices to control erosion and runoff from areas associated with the activity, including access roads. All areas of temporary impacts and all other areas of temporary disturbance that could result in a discharge or a threatened discharge to waters of the U.S. and/or state must be restored. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.

h. Notification of completion, including representative photos showing completion, shall be submitted to the appropriate Regional Water Board within 30 days of completion of the activity.

5. To support adequate state staffing for all state agencies assigned response and/or recovery role related to the 2022-2023 Winter Storm Events in coastal streams including and between the Pajaro River (Santa Cruz/Monterey/San Benito Counties) and the Ventura River (Santa Barbara/Ventura County), consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. All other restrictions must be adhered to for retired annuitants. The Director of the California Department of Human Resources must be notified of any individual employed in state government pursuant to these suspensions. The suspension of statutes identified in this Paragraph shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the damage from the 2022-2023 Winter Storm Events in coastal streams including and between the Pajaro River (Santa Cruz/Monterey/San Benito Counties) and the Ventura River (Santa Barbara/Ventura County). Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.

6. The limitation for the period of employment for State Personnel Board emergency appointments, as provided in Government Code section 19888.1, is suspended for positions required for emergency response and/or recovery operations related to the 2022-2023 Winter Storm Events in coastal streams including and between the Pajaro River (Santa Cruz/Monterey/San Benito Counties) and the Ventura River (Santa Barbara/Ventura County). The requirements

and period of employment for such appointments will be determined by the Office of Emergency Services but shall not extend beyond the termination date of the State of Emergency.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed with the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of August 2023.

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.

###

LICENSE NUMBER	1221

LICENSE TO USE STATE MILITARY PROPERTY

BETWEEN

CALIFORNIA MILITARY DEPARTMENT

AND

The City of Porterville

FOR

USE OF READINESS CENTER IMPROVEMENTS AND GROUNDS

This AGREEMENT, dated for reference the 10th day of April 2023, by and between the California Military Department (CMD), hereinafter called STATE, and the City of Porterville, 291 North Main Street, Porterville, CA 93257, hereinafter called LICENSEE, without distinction as to number or gender, and effective upon execution by STATE. STATE and LICENSEE are sometimes referred to individually as a "party" or collectively as the "parties".

RECITALS

WHEREAS, the STATE has under its jurisdiction, certain real property known as the Porterville armory, located at 29 N. Plano St. Porterville, CA 93257, hereinafter called PREMISES, identified in **Exhibit "B"**, consisting of one (1) page and attached hereto and incorporated herein by this reference.; and,

WHEREAS, it is essential that STATE have a secure facility and surrounding grounds; and,

WHEREAS, PREMISES may be made available to meet the needs of the local civil authority when not required to meet immediate operational requirements;

NOW THEREFORE, STATE and LICENSEE agree as follows:

WITNESSETH

I. GENERAL PROVISIONS

1. AGREEMENT is for **non-exclusive weekday or weekend use** throughout the license term.
2. Upon declaration of emergency by the STATE or federal government, STATE reserves the right to reoccupy PREMISES, including all parking areas, with twenty-four (24) hours written or electronic (voice or email) notice to LICENSEE at the notification address/number below.

3. PREMISES will not be available during the following drill periods: n/a
4. LICENSEE shall comply with all applicable statutes, laws, ordinances and rules or regulations adopted by the Federal, State or any City, City and County, County or other body politic pertaining to use of said premises or any provisions of the License.
5. LICENSEE shall comply with such reasonable rules and regulations as may be prescribed by STATE for the reasonable use and occupation of State Facilities.
6. LICENSEE understands and agrees the California Legislature may impose additional restrictions, limitations or conditions affecting AGREEMENT provisions or terms; however, any such changes become effective no sooner than 30 days after the legislature has acted.
7. This agreement shall not be assigned or sublet or otherwise encumbered, in whole or in part, without STATE'S prior written consent.
8. STATE shall supply PREMISES with utilities, the nominal cost of which is included in the use fee. Section VI (FEES), item #5 addresses extraordinary utility use and payment.
9. LICENSEE shall have use of the offices, storage areas, drill floor, latrines, showers, parking areas for placement of storage containers (if required), and kitchen counters solely for food preparation or distribution (no oven or stove top use). All food will be stored and surfaces cleaned on a daily basis when shelter operations are underway.
10. STATE is not responsible for losses or damage to personal property, equipment or materials of LICENSEE, its employees, agents or clients. LICENSEE shall report to STATE all losses immediately upon discovery.
11. LICENSEE shall not drive any nails, tacks, pins or other objects into the walls, ceilings, partitions, windows, woodwork, or any other part of PREMISES, nor in any manner move or change any fixture, nor make any alterations to PREMISES without STATE'S prior written consent.
12. Upon completion of use, LICENSEE shall remove all decorations, display, signs, and equipment on PREMISES.
13. Upon license expiration, LICENSEE will surrender PREMISES to STATE with appurtenances and fixtures in good order, condition, and repair, reasonable use and wear thereof, or Acts of God excepted.
14. LICENSEE shall not permit any alcoholic beverage to be offered for sale, stored, given away or otherwise disposed or consumed on any part of PREMISES, nor shall LICENSEE permit any use of tobacco products on any part of PREMISES or within twenty (20) feet of entrances, doorways or opening windows, except in a sufficiently distanced controlled area under LICENSEE supervision.
15. LICENSEE acknowledges PREMISES may not be fully ADA compliant and agrees to implement or improve, at its sole cost and expense, those necessary compliance measures required for the duration of its use. Furthermore, LICENSEE agrees to provide any and all required temporary emergency lighting required by State, County or City laws or ordinances.

II. AUTHORIZED ACTIVITIES

1. LICENSEE is authorized to use PREMISES to provide temporary shelter and/or health and medical services to homeless citizens of the community.
2. LICENSEE may provide on-site program management through either LICENSEE employees, agents or volunteers or through contracted services.
3. LICENSEE agrees to clean PREMISES removing all litter, trash, cans, bottles, etc. from PREMISES after each use period, but not less than once per day.
4. LICENSEE shall provide janitorial services, whether from a licensed contractor or qualified civil service employee(s), to clean and sanitize the armory, including restrooms, showers, and drill floor, according to standards set forth in **Exhibit "F"**, made a part hereof by this reference. If civil service employees will not fulfill janitorial services, LILCENSEE shall provide STATE a copy of the janitorial contract before commencement of licensed use.
5. The armory facility will be available twenty-four (24) hours each day unless otherwise approved by the STATE for extended periods during inclement weather conditions.
6. LICENSEE shall provide on PREMISES one hour before shelter opening until one hour after lights-out in the evening no less than one (1) appropriately licensed (guard card) and easily identifiable uniformed security officer. The security officer shall have access to a telephone, provided by LICENSEE, for contacting the appropriate law enforcement agency, should it become necessary. LICENSEE is responsible for protecting patrons, agents and invitees from acts of third parties, and agrees to notify STATE and appropriate law enforcement agencies as required.
7. Uniformed security personnel will check (search) each client for weapons and drug paraphernalia before any client may enter, or reenter the armory. On-site supervising soldiers are not security personnel and WILL NOT assist with weapon checks or other security-related actions; however, they will observe security inspections.
8. Security personnel will notify the military site supervisor or, if one is not available, the Area Coordinator or the STATE Program Manager before leaving PREMISES. A copy of the security contract will be due to the STATE before the license term begins.
9. Consistent with GC 15301.3(e), LICENSEE shall provide STATE a schedule of nightly shelter visits by law enforcement officers of the local jurisdiction within which the armory is located.
10. Any damage to PREMISES will be inspected by STATE representatives (CMD Area Coordinator) and LICENSEE to determine the character and extent of damage (with photographs). Repairs should be completed within twenty-four (24) hours if an emergency or seventy-two (72) hours if urgent.
11. The STATE Area Coordinator will contract for necessary repair or restoration services using appropriate state or federal guidance, while coordinating and collaborating closely with LICENSEE. LICENSEE may not undertake repairs or restoration using its own forces or contract services without the prior written

consent of STATE'S Area Coordinator.

12. Within thirty (30) days of being presented a demand (invoice) for payment, LICENSEE shall make STATE whole for the cost of repairing or restoring any improvement or utility damaged as a result of PREMISES shelter use. If significant plumbing issues occur due to repeated latrine clogging by clients, the LICENSEE will provide, at its sole cost or expense, portable latrines for the duration of the contract.

13. LICENSEE shall take all necessary steps to ensure shelter clients do not constitute a nuisance in the immediate vicinity of PREMISES during hours of shelter operation. If at any time the STATE is dissatisfied with the LICENSEE efforts, the LICENSEE and STATE shall meet to explore means and methods of compliance.

14. LICENSEE is solely responsible for supplying consumables including, but limited to cleaning or sanitizing supplies and equipment, liquid soap, paper towels, and toilet paper. LICENSEE affirms the County Health Department shall provide regular health screenings and consultation on sanitation issues as required or as otherwise requested.

15. The ONLY animals allowed inside PREMISES are *service animals* as defined in Section XIV below. Client pets or any other animal not meeting the definition of service animal must remain outside PREMISES at all times.

16. LICENSEE shall conform to the guidance and recommendations for tuberculosis prevention outlined in "*Preventing Tuberculosis (TB) in Homeless Shelters: A Guide for Preventing and Controlling TB and other Aerosol Transmissible Diseases in Los Angeles County Facilities*", included as **Exhibit "C"** herein and by this reference made a part hereof.

17. LICENSEE shall at all times conform to local or state (Governor's) orders for preventing COVID-19 infection by mandating mask wearing and organizing the site to conform to physical distancing requirements.

18. Before clients may park their vehicle in PREMISES parking area, LICENSEE shall ensure each has a valid vehicle registration and current insurance coverage.

19. Vehicles parked on PREMISES without appropriate approval shall be towed away by STATE's order and at LICENSEE's risk and expense.

III. NOTIFICATION

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00 a.m. and 5:00 p.m. Pacific Standard Time. so long as such day is not a State or Federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

To LICENSEE:

City of Porterville
Attn: City Manager
291 North Main Street
Porterville, CA 93257
(559) 782-7466

To STATE:

California Military Department
9800 Goethe Road, Box 18
Sacramento, CA 95826
(916) 854-3788

PROGRAM MANAGER:
SSG Monica Estrada
(916) 541-8160

Notice of change of address or telephone number shall be given by written notice in the manner described in this section. LICENSEE is obligated to notice State offices listed above and the failure to provide notice to do so shall constitute a lack of notice. Nothing contained herein shall preclude the giving of any such notice by personal service.

IV. INSURANCE REQUIREMENTS

LICENSEE is a public entity, which is self-insured and will be responsible for any damage caused to PREMISES. Additionally, LICENSEE shall indemnify STATE against any injuries caused by use of PREMISES. LICENSEE has furnished the necessary Certificate of Self-Insurance, **Exhibit "D"** attached hereto and incorporated herein by this reference, demonstrating the required insurance coverage will be in effect during the complete term of AGREEMENT, and shall include, but not be limited to:

- Combined single limit liability of $2,000,000, or
- Special event coverage with a limit of $2,000,000, and
- A statement naming the United States, State of California, its officers, agents, employees, and servants as additional insured, but only with respect to the activities of the named insured.

V. HOLD HARMLESS INDEMNIFICATION

The PREMISES are provided in "AS-IS" and "WITH ALL FAULTS" condition, and STATE and its employees, representatives and agents disclaim all warranties, expressed or implied, regarding the PREMISES, including, but not limited to, all implied warranties of merchantability or fitness for a particular purpose or compliance with Applicable Law. LICENSEES acknowledges and agrees that STATE and its employees, representatives and agents have made no representations or warranties for the PREMISES, including, without limitation, any representations or warranties regarding, (a) the condition or repair of the PREMISES, (b) whether such PREMISES are sufficient for the purposes of LICENSEE, or (c) whether the PREMISES comply with Applicable Laws (as defined below), including without limitation the Americans with Disabilities Act (ADA) or other accessibility laws, (d) whether there are any facts or conditions affecting the PREMISES that might, individually or in the aggregate, interfere with the use or occupancy of the

PREMISES or any portion thereof by LICENSEE.

The use of the PREMISES by LICENSEE shall be conclusive evidence that LICENSEE accepts the same "AS IS and WITH ALL FAULTS" and that the PREMISES are suited for the use intended by LICENSEE and are in good and satisfactory condition at the time such possession was taken. LICENSEE represents and warrants to STATE that (a) its sole intended use of the PREMISES is for temporary sheltering (the "Permitted Use") and (b) prior to using the PREMISES it has made such investigations as it deems appropriate with respect to the suitability of the PREMISES for its intended use and has determined that the PREMISES are suitable for such intended use.

LICENSEE shall comply with all applicable statutes, laws, ordinances and rules and regulations adopted by the Federal, State or any City, City and County, County or other body politic, including without limitation all building codes, the ADA or other accessibility laws ("Applicable Laws") and which pertains to use of the PREMISES or any provisions of the License, and will indemnify, defend and hold STATE free and harmless from and against any violations thereof and any and all liabilities, suits, causes of action, judgments, demands and claims for damages, including all reasonable costs of any litigation and attorney's fees and expenses, arising out or by reason of any such violation.

LICENSEE shall indemnify, defend and hold STATE its employees, representatives and agents free and harmless from and against any and all suits, causes of action, demands, proceedings, claims, damages, judgments, obligations liabilities, liens, fines, costs, and expenses (including, but not limited to, attorneys' fees and costs) (collectively "Losses") which arise from or are related to (a) use or occupancy of the PREMISES by LICENSEE or its Representatives, including, but not limited to, damage to property of any kind whatsoever and to whomsoever belonging, including LICENSEE, from any cause or causes whatsoever during the term of this License or any occupancy hereunder, holdover periods or any other occupancy of the PREMISES during the term of this License, except (i) those Losses that are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by sole gross negligence of the STATE or its employees, or (ii) to the extent any such Losses are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by the willful misconduct of the STATE or its employees; provided, however, any condition of the PREMISES that is found to be in violation of any Applicable Law by a court or administrative tribunal of competent jurisdiction shall not be deemed gross negligence or willful misconduct on the part of the STATE or its employees; (b) breach of LICENSEE'S obligations under the AGREEMENT, (c) negligence or other wrongful act by LICENSEE or its Representatives, (d) violation of Applicable Law by LICENSEE or its Representatives, (e) any allegation that the PREMISES do not comply with Applicable Law. "Representatives" means LICENSEE'S agents, employees, representatives, contractors, or any other person or persons acting within the direct control or authority of such party or its agents, employees, representatives or contractors.

VI. FEES

1. The use fee is waived based on Services in Kind as per California Army National Guard Regulation 210-2 paragraph 9.
2. Extraordinary utility costs are waived during the term of this license.
3. Emergency 24 hour use of the facility is authorized through the request from the local Office of Emergency Services.

VII. TERM

License shall take effect no earlier than April 11, 2023 or upon execution by STATE, whichever is later, and shall expire no later than 0800 (8:00 A.M.) August 31, 2023.

VIII. AMENDMENT AND TERMINATION

AGEEMENT amendment or modification must be in writing and duly executed by the parties.

Either party may terminate AGEEMENT with 30 days written notification to the other at the addresses previously given. Upon termination, the activities of the parties shall be governed by the applicable provisions of the Military and Veterans Code. STATE is not obligated to reimburse LICENSEE any fees should it terminate this AGREEMENT before reaching its full term.

IX. ENTIRE AGREEMENT

AGREEMENT, along with any exhibits attached hereto, constitutes the entire covenant and understanding between STATE and LICENSEE for PREMISES. AGREEMENT supersedes all prior and contemporaneous routine activity agreements, representations or understandings, if any, whether oral or written.

X. DURATION & RENEWAL

AGREEMENT shall remain in effect through the termination date and will not be extended, but may be renewed annually subsequent to renegotiation required to protect the parties.

XI. RIGHT TO ENTER

During continuance in force of AGREEMENT, there shall be, and is hereby expressly reserved to STATE and to any of its contractors, agents, employees, representatives, or licensees, the right at any and all reasonable times, and any and all places to temporarily enter upon said PREMISES for inspection or other lawful STATE purposes.

XII. ENVIRONMENTAL LAWS AND REGULATIONS

LICENSEE must comply with all applicable local, State or Federal environmental provisions, requirements, ordinances, regulations or laws. AGREEMENT does not constitute any form of authorization, permit, or opinion with respect to the satisfaction thereof. LICENSEE agrees that it shall comply with all laws, federal, state, or local, existing during the term of this license pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law.

1. In the event STATE or any of its affiliates, successors, principals, employees, or agents should incur any liability, cost, or expense, including attorney's fees and costs, as a result of the LICENSEE'S illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, the LICENSEE shall indemnify, defend, and hold harmless any of these individuals against such liability.
2. Where the LICENSEE is found to be in breach of this Paragraph due to the issuance of a government order directing the LICENSEE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by the LICENSEE or any person acting under

LICENSEE'S direct control and authority, LICENSEE shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by STATE in connection with or in response to such government order.

XIII. DEFAULT

LICENSEE shall make all required payments to the STATE without deduction, default or delay. In the event of the failure of LICENSEE to do so, or in the event of a breach of any of the other terms, covenants or conditions herein contained on the part of LICENSEE to be kept and performed, and if such default continues for a period of thirty (30) days after receipt of written notice from STATE to LICENSEE of such default, this License may, at the STATE'S sole discretion, be terminated.

In the event of termination of this License, it shall be lawful for STATE to reenter into and upon the PREMISES and every part thereof and to remove and store at LICENSEE's expense all property therefrom and to repossess and occupy the PREMISES. In the event STATE terminates this License pursuant to this Paragraph, the STATE shall not be required to pay LICENSEE any sum or sums whatsoever.

XIV. SERVICE ANIMALS

Service Animal Defined by Title II and Title III of the ADA: (from the ADA National Network)

Under Title II and III of the ADA, service animals are **limited to dogs** individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individual's disability. A doctor's letter does not turn an animal into a service animal.

Examples of animals fitting the ADA's definition of "service animal" because they have been **specifically trained to perform a task for the person with a disability**:

Guide Dog or Seeing Eye® Dog1 is a carefully trained dog that serves as a travel tool for persons who have severe visual impairments or are blind.

Hearing or Signal Dog is a dog that has been trained to alert a person who has a significant hearing loss or is deaf when a sound occurs, such as a knock on the door.

Psychiatric Service Dog is a dog that has been trained to perform tasks that assist individuals with disabilities to detect the onset of psychiatric episodes and lessen their effects.

SigDOG (sensory signal dogs or social signal dog) is a dog trained to assist a person with autism. The dog alerts the handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (e.g., hand flapping).

Seizure Response Dog is a dog trained to assist a person with a seizure disorder. The dog may stand guard over the person during a seizure or the dog may go for help. A few dogs have learned to predict a seizure and warn the person in advance to sit down or move to a safe place.

While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, **they are not considered service animals under the ADA**. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities and are not covered by federal laws protecting the use of service animals.

A public facility is not allowed to ask for documentation or proof a dog has been certified, trained, or licensed as a service animal. Staff on site may ask the following questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

No further questions should be asked regarding the disability or the animal, nor is it permissible to ask that the dog perform the task that grants it to be a service animal.

CONCURRENCE

	Martha A. Flores
INSTALLATION COMMANDER	CITY OF PORTERVILLE
DATE:	DATE: 04/21/2023
FOR THE ADJUTANT GENERAL	
DATE:	

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 atthe 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: AZaheen

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,

Andrew Lockman
Office of Emergency Services Manager

LICENSE NUMBER	1221

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 <u>without appropriate approval</u> 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

AGEEMENT 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.

AGEEMENT 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

	Marina A. Flores
FOR THE ADJUTANT GENERAL	CITY OF PORTERVILLE
DATE:	DATE: 05/17/2023

An official website of the United States government
Here's how you know

FEMA

4699-DR-CA Amendment 006

English

Notice Date	July 10, 2023

Billing Code 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4699-DR]

[Docket ID FEMA-2023-0001]

California; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of California (FEMA-4699-DR), dated April 3, 2023, and related determinations.

DATE: This amendment was issued July 14, 2023.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 10, 2023.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

_____

Deanne Criswell,

Administrator,

Federal Emergency Management Agency.

Last updated July 14, 2023

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FEMA

Contact FEMA

FEMA.gov

An official website of the U.S. Department of Homeland Security

National Terrorism Advisory System

RESOLUTION NO. 15-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE CATASTROPHIC / EMERGENCY RESERVE FOR THE COSTS ASSOCIATED WITH THE RESPONSE TO THE LOCAL FLOOD EMERGENCY

WHEREAS: Pursuant to Chapter 9 of the Porterville Municipal Code, Mayor Martha A. Flores declared the existence of a local emergency within the City of Porterville on March 13, 2023 due to the threat to life and property caused by a series of storms impacting Success Lake significantly increasing the Tule River flows; and

WHEREAS: Flood water and water from Success Lake had caused evacuation warnings and mandatory evacuation orders in the month of March for some local residents; and

WHEREAS: Historic water levels and flows of the Tule River have caused erosion to the river banks, prompting City staff to take extraordinary measures to protect the riverbanks and avoid potentially catastrophic flooding;

WHEREAS: The significant threat of local flooding emergency continues to exist with the estimated snow pack in the Sierra Nevada mountains of more than three hundred percent (300%) of normal and the potential for a warm storm or heat wave this Spring; and

WHEREAS: The City of Porterville Municipal Code Section 2-31.2, established the Catastrophic / Emergency Reserve Fund for the purpose of providing funds to mitigate costs associated with unforeseen emergencies, including natural disasters or catastrophic events;

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council of the City of Porterville make a finding that the local flood emergency is an unforeseen and unavoidable event that require the expenditure of City resources beyond those provided for in the annual budget; and

2. That the City Council of the City of Porterville does hereby approve and authorize the appropriation of funds from the Catastrophic / Emergency Reserve Fund for the costs associated with the response to the local emergency including personnel, equipment, services, and other necessary expenditures; and

3. That the City Council authorize the replacement of funds from any grant funds that may be used to reimburse said costs.

PASSED, APPROVED AND ADOPTED this 4th day of April, 2023.

Martha A. Flores

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

Customer: PORTERVILLE FIRE DEPARTMENT

Ship To:

PORTERVILLE FIRE DEPARTMENT
40 W CLEVELAND
PORTERVILLE, CA 93257

Contact: JANIE RODRIGUEZ
PO Number: 23-22733

Sales Rep	Payment Terms	FOB Point	Carrier	Ship Service	Date Scheduled
MELISSA	NET 30	Origin	UPS Next Day Air		03/20/2023

Item #	Type	Number	Description	Unit Price	Qty Ordered	Total Price
1	Kit	KT2210	PFD TYPE V PACKAGE	$250.00	20 ea	$ 5,000.00
2	Sale	PF4026R	NRS 2022 RAPID RESCUER RED	$0.00	20 ea	$ 0.00
3	Sale	KN2556OR	NRS PILOT KNIFE ORANGE	$0.00	20 ea	$ 0.00
4	Sale	WH7905	WHISTLE-RESCUE 3 LOGO WITH COIL	$0.00	20 ea	$ 0.00
5	Sale	HL7050HVL/XL	RQ3 STORM PRO HELMET HI VIS LARGE/XLARGE	$32.00	20 ea	$ 640.00
6	Shipping	Freight	Freight Out	$256.00	1 ea	$ 256.00
7	Sale	Tax Expense	Tax Expense	$521.70	1 ea	$ 521.70

Subtotal:	**$6,417.70**
Sales Tax:	**$0.00**
Total:	**$6,417.70**

Thank you for your order.
If you have any questions please call 800-457-3728
or e-mail info@rescuesource.com.

Royal Restrooms

A Regal Portable Restroom Experience

1452 N. Vasco Road #101
Livermore, Ca 94551
Phone: 877.922.9980
Fax:(925) 337-8878

Cage Code 5HJ93

DATE: 04-12-2023
INVOICE #
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

Rain For Rent
Bakersfield
4001 State Rd
Bakersfield CA 93308
United States
661-399-1724

24/7 Emergency 800-742-7246
www.rainforrent.com

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#	INVOICE DATE	PO or JOB#	PAYMENT DUE
1854595	3/30/2023	23-22734	4/29/2023

PLEASE PAY $77,396.67

SHIPPED TO JOBSITE:

NAME CITY OF PORTERVILLE

ADDRESS Corporation Yard
555 N Prospect St
Porterville CA 93257

PHONE

Notes:

Requested by: Michael Knight
PO Number: 23-22734

QTY	UOM	DESCRIPTION	PRODUCT #	STATUS	DATE OUT	BILLED THRU	DAYS BILLED	PRICE	AMOUNT	TAXABLE
1.00	EA	Pump BA150E D285 Tlr Mt Diesel Eng Hatz 4H50TIC	1022734		SALES		0.00	$65,685.06	$65,685.06	Y
1.00	EA	Shipping/Handling Freight	M240			SERVICES	0.00	$5,158.57	$5,158.57	Y

TOTAL SALES:	$65,685.06
TOTAL RENTALS:	$0.00
TOTAL SERVICES:	$5,158.57
TOTAL OTHER:	$0.00
SUBTOTAL:	$70,843.63
TAX:	$6,553.04
TOTAL:	$77,396.67

FOR PROPER CREDIT, PLEASE INCLUDE INVOICE NUMBER ON YOUR PAYMENT.
PAST DUE AMOUNTS ARE SUBJECT TO A SERVICE CHARGE OF 1.50%
CUSTOMER, (RENTEE OR BUYER as context requires), shall be deemed to accept all terms, conditions and provisions hereof upon execution of this agreement; ordering; or delivery of equipment to customer, whichever comes first.

PAYMENT TERMS: NET 30

SIGNATURE: _____ DATE: _____

Mike Clark Trucking
19385 Avenue 144
Porterville, CA 93257 US
+1 5597845486
mct3desk1@yahoo.com

INVOICE

BILL TO
City of Porterville
Street Superintendent, Field
Service Div.
555 N. Prospect
Porterville, Ca 93257

INVOICE # 2637
DATE 03/23/2023
DUE DATE 04/25/2023
TERMS Net 30

DATE	FREIGHT	ACTIVITY	FREIGHT BILL	RATE	AMOUNT
03/23/2023	8.80	Super 10	7383117 - Luque	120.00	1,056.00
03/23/2023	9.70	Super 10	7383219 - Luque	120.00	1,164.00
03/23/2023	9.70	Super 10	7383046 - Luque	120.00	1,164.00
03/23/2023	9.80	Super 10	8432857 - Luque	120.00	1,176.00
03/23/2023	7.30	Super 10	9281272 - Luque	120.00	876.00

Thank you for your business!

SUBTOTAL	5,436.00
TAX	0.00
TOTAL	5,436.00
BALANCE DUE	**$5,436.00**

A finance charge of 1.5% monthly/18% annually will be charged on accounts over 30 days past due. In the event a suit is brought to enforce collection, the customer shall be liable for responsible attorneys fees and costs of the suit.

Name of person in charge: Amy Greybehl
Start 5/5/23
Event Date: month to month Price Per Guard: _____

Event Time: 8pm - 8AM How many guests: open

(Overtime is billed at $35 per hour) _____ Invite Only: Y/N

Event Location: ~~47~~ 29 Plano St

City: Porterville State: CA

Zip: 93257 Special Instructions/ Directions for Event:

2guards, check-in Guest by 8pm, lock gates, lights of by 10pm.

Balance Due for guaranteed hours $: 18,000 - updated

Third Party Information- Please Print Clearly

Financially Responsible Party (Client):

City of Porterville - Army National Guard

Clients Contact Phone Number: 559-782-7521

Client Email Address: agreybehl@ci.porterville.ca.us

Clients Home Address: City

City: Porterville State: CA Zip: 93257

Wedding/Prom/ Anniversary? Other: _____

Payment Information:

The parties have read all pages of this Agreement & the attached Terms and Conditions, agree to all its terms, and acknowledge receipt of a complete copy of the Agreement and Terms & Conditions. Each person signing as the Client below shall be responsible for ensuring that full payment is made as stated in this document. Client agrees that a 30% non-refundable retainer will be due immediately to reserve date and time as listed on contract.

Venmo: _____ @Chris-Morton-80 Zelle: _____(559)756-4570

Cashapp: _____ $maddym90 Check: X* _____ Cash:_____

*Payment to be issued upon completion of a City of Porterville Business License Application

Client Initials: AG

Date: 5/5/23

You are a valued customer of Topknotch Security INC, and we want you to enjoy our guards' services. To ensure that the integrity of our officers is maintained for you and all of our customers, the following Terms & Conditions apply to all services provided by Topknotch Security INC, under all circumstances and without exception.

The purchaser (client) on the front of this contract is 100% responsible for his or her guests.

Topknotch Security INC will strictly enforce State and Federal Laws and will maintain a zero-tolerance compliance policy that no alcoholic beverages can be consumed or used by any person not of legal drinking age. All U.S. law enforcement agencies have absolute power to stop any event for administrative search. If contraband is found, even in negligible quantities without the officers knowledge, they can seize and forfeit the contraband to a local government agency. All law enforcement agencies are aggressively enforcing this policy.

Topknotch Security INC will not be responsible for injuries that may occur due to fighting while the event is ongoing. Topknotch Security INC will do their best to defuse any situation verbally, if Topknotch Security INC feels as if our officers cannot control the situation, we will be forced to contact the local law enforcement.

At the officer's discretion, the Client agrees to be fully liable for any damages / charges that may be incurred.

The Client accepts full responsibility for any and all damage, and for any loss of income due to negligence or carelessness caused by any member of the client's group at any time during the event. The Client authorizes Topknotch Security INC to charge for the expenses regardless of and in addition to any prior agreements or understandings. These charges are necessary due to the high cost of insurance, health insurance, uniforms, and due to the revenue and time lost during the time that the officer cannot work.

Please initial here to acknowledge the charges should any damages occur. AG

• Topknotch Security INC recommends that all and any personal valuables be removed from the vehicle when unattended. We will not be held responsible for any lost, stolen, or damaged articles.

• Topknotch Security INC reserves the right to terminate this or any other contract for noncompliance of the above requests, especially if responsible party does not follow Topknotch Security INC, requests to obey the rules in this contract.

Any deposits (cash, checks or course of payment) will be non-refundable for any reason, if any cancellation occurs from the responsible party's side. If for any reason the local law enforcements shuts the event down for any reasons, payment is non-refundable. The open balance is due immediately the day before the agreed job. The renter authorizes the immediate 30% non-refundable retainer & the final payment, states that she/he is the authorized purchaser for this rental contract, the authorized party for the given payment, responsible and liable for payment of the total amount, per cash or other payments. As with all contracts, the rental contract between the mentioned person as renter (Client) and Topknotch Security INC is made with the information and the terms given to us. I am satisfied with the terms and conditions above and fully understand and agree to everything stated in the contract.

Client Initials: AG Date 5/5/23

All of the given information from the Client is binding and cannot be changed without Topknotch Security INC acceptance. If the contract is cancelled after it is signed, Topknotch Security INC is still authorized to collect the remaining balance in full, if the officers does not go out again on the cancelled date for the same or higher amount. We will reserve the set date upon the approval of the purchaser's preferred payment as per telephone conversation. The responsible party gives authorization to use the payment information over the phone / fax / Internet in combination with a signed contract. It is agreed that it is not necessary to obtain a signed slip, as the reservation is made over the phone / fax / Internet. Proof of identity of the purchaser using said credit card must be supported by the signed contract or in person. At time of event we need the full payment, state identification of the purchaser that authorizes the transaction for the signed contract. If the purchaser cannot provide all of the above items at the time of event, Topknotch Security INC will not start the job, as we have no proof of the legal possession of payment. Therefore the risk of not getting paid will give us the right to cancel. The purchaser is still fully responsible to pay the total amount as he failed to provide the above requirements.

Topknotch Security INC cannot guarantee the availability of overtime. It is of particular importance that the purchaser makes allowances for anticipated delays and adheres to the agreed time schedule. In the event that the purchaser wants to change the time of the itinerary, they may do so, only if Topknotch Security INC can accommodate other clients that booked with Topknotch Security INC prior to or after the said time. The purchaser further agrees to pay additional charges incurred such as overtime and or more officers. The overtime will be billed by hourly rate at $35.00 per hour, unless negotiated otherwise. If customer fails to cancel at the last minute, the full amount of contracted time will be charged.

The purchaser authorizes Topknotch Security INC to charge any additional charges after they have rendered services to the purchasers' as supplemental charge. If cash payment is selected, the payment is due no later than the close of the next business day in full. Customer agrees to have Topknotch Security INC get an authorization for the above course of payment and amount, for the event stated above.

If any payment due hereunder is unpaid (10) ten days after the due date, hereon Topknotch Security INC will have the right to add and collect late charges with interest at the maximum rate allowed by law. All such sums are due and owing with any other expenses, (filing fees, court cost, and reasonable attorney fees, etc.)

I fully understand and agree to everything stated in the contract and the Terms & Conditions. If, for any reasons, I am not fully satisfied with the services I receive, I have 24 hours after the completion of the job to file a complaint in writing. If Topknotch Security INC, does not receive my written complaint in the above stated timeframe, I agree that there is no valid complaint, and I am fully satisfied with the services I received. Filing a written complaint insures both parties that it is fully understood what the problem was and will help Topknotch Security INC to assist the responsible parties in any kind of resolution to the complaint. The purchaser will be contacted within a week of the complaint to settle the matter. I understand that this is a separate case from the main contract and therefore have no dispute in general against Topknotch Security INC and the payment I authorized.

Since Topknotch Security INC offers high-tech-equipment, sometimes heat and excessive use of all power-operated equipment might be subject to having more breaks for our officers. This will, of course, not interfere with the safety of the party itself and therefore will have no effect on continuing or paying of the contracted event. Topknotch Security INC guarantees that all our officers are constantly trained to keep the highest possible standards and eliminate such failures as much as possible. We have the right to add more officers in case of emergency or the event is getting bigger than contracted. As stated, this will only happen in emergencies, and to upgrade, never downgrade. If the upgrade is needed, Topknotch Security INC gives the customer the right to downsize the event and receive additional charges. Additional charges will occur on the customer's side if an upgrade is made. Topknotch Security INC will notify the responsible party if more officers and hours are needed, as well as how much more the cost will be.

If any of our above guarantees or contracted terms cannot be met due to conditions outside of our control, including weather, accidents, and any other acts of incidents, we will use our best efforts to notify the customer of these conditions and resulting delays or changes.

I am satisfied with the terms and conditions above and fully understand and agree to everything stated in the contract and the Terms & Conditions.

Client Signature Amy Graybehl Date 5/5/23

Topknotch Security Representative Signature Madeleine Morton Date 5/3/25

ADDITIONAL REMARKS:

- 1 officer roaming & 1 officer checking in guest
- Roaming grounds and making sure lights out at 10 pm
- Making sure no guest leave after 8pm
- Roaming the whole grounds and the animals

SECURITY SERVICES AGREEMENT

AGREEMENT PREPARED FOR: City of Porterville: Shelter

July 15, 2023







Good Guard Security, Inc.

21622 Plummer St, Suite 200, Chatsworth, CA 91311

1-800-651-0491 ext 1061

info@goodguardsecurity.com

www.GoodGuardSecurity.com

SERVICE DETAILS

Client Service Address:	**29 N Plano St, Porterville, CA 93257**
Client Billing Address:	**29 N Plano St, Porterville, CA 93257**
Service Hours:	**7 Day(s) / 07:30 PM - 08:30 AM / 13 Hours / Monday - Sunday**
Location Contact & Telephone Number: Email:	**Amy Graybehl 559-782-7521 agraybehl@ci.porterville.ca.us**
Rate (U.S. Dollars): Holiday Rate	**$28.95 (Per Hour Per Guard) $43.45 (Per Hour Per Guard)**
Service Commencement Date:	**07/17/2023 @ 07:30 PM**
Payment Terms:	**Bi-weekly**
Permanent/Temporary:	**Permanent 3 Month Minimum (30 Day Cancellation Notice)**
Uniform:	**Professional Security Uniform**
Additional Charges:	**N/a**
Security Service Description:	**2 Professional Unarmed Guard(s)** **1 Guard will be intaking clients and the other guard will be patrolling the facility.** **Note: Providing a visual deterrent to any outside danger. Security officers will make sure there isn't anyone vandalizing the premises, or trying to break into the property. Loss prevention.**

This SECURITY SERVICES AGREEMENT ("Agreement") is entered into upon mutual execution hereof by and between GOOD GUARD SECURITY, a California corporation, Private Patrol Operator (PPO) License #120362 (hereinafter, "Company") and **City of Porterville** (hereinafter, "Client"), with respect to the following:

1. **RATES:** Service Rates are subject to adjustment for any change in any law, causing a change in work hours, wage rates, working conditions or other costs to Company.

2. **PAYMENT:** Invoices will be submitted either bi-weekly or monthly, upon mutual agreement between Company and Client, and are payable on receipt at the address on the invoice. A late charge of 1 ½ % per month will be added to balances not paid within seven days.

3. **EMPLOYEES: (a)** Personnel supplied by Company are its employees and not Client's. Company is solely responsible for social security, unemployment and similar taxes applicable to its employees.
(b) Company is a Federal Government Contractor and complies with Executive Order 11246, as amended: Section 503 of the Rehabilitation Act of 1973, as amended: Section 402 of Vietnam era Veterans' Readjustment Assistance Act of 1974 and related regulations. Company's employees will be assigned without regard to race, color, creed, sex, and national origin, handicap conditions that do not impair job performance or veteran status.
(c) *Client may reasonably remove any employee assigned provided such removal is not in violation of law. In the event any employee is removed at Client's request, Client agrees to indemnify and hold Company harmless from any claims, demands, liabilities, judgments, losses, suits, damages, fines, penalties, and expenses including reasonable attorney's fees and defense costs (hereinafter collectively "Claim(s)") that may arise there from.*

4. **OVERTIME:** Overtime rates shall apply to work on New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas; work on any additional holidays listed and any extra hours exceeding 8-hours a day or 40-hours per week. Coverage for labor disputes, civil disorders or natural disaster, or special assignment or agreement is not included except as described in the Service Rate Classification. Additional overtime rates shall not apply to situations where an employee of Company already on-duty covers hours for a "called-off" employee and thus works over 8-hours in his/her shift.

5. **PROPERTY/EQUIPMENT:** All property and equipment furnished by Company for performance of its services under this Agreement, regardless of whether portable or stationary, shall be considered the personal property of Company, and shall remain the personal property of Company after termination of this Agreement. Upon the termination of this Agreement, the Company shall have reasonable access and time to remove its property from Client's property. Client shall not be responsible for any of Company's personal property which is stolen, damaged or missing from the property in the absence of Company's supervision.

6. **KEYS/ACCESS:** Company shall not be provided a master key (or its equivalent) to the property or any portion thereof, except for such location(s) that are to be exclusively used by Company's guards or other personnel. Notwithstanding anything to the contrary in this Agreement, Company shall not be responsible for any damages including, without limitation, any costs incurred in re-keying or changing locks caused by the loss or theft of such key(s).

7. **NON-COMPETITION:** Client, its affiliates, agents, and other related persons or entities hereby agree not to hire any Company staff, employees, or personnel for a period of at least one (1) year after such person has terminated his/her employment with Company. Client further agrees not to prepare to engage in competition with Company, solicit,

divert, poach, or encourage any of the Company staff, employees, or personnel to stop working with Company, or to solicit, divert, poach, encourage, or facilitate them to work with Client, any affiliate of Client, or any related person or entity of Client. Client recognizes that Company has a significant investment in the recruitment and training of it employees and guards to be providing services under this Agreement, and that these personnel are a valuable asset to Company. As it is impractical and extremely difficult to fix the actual damages which may result from the loss of such employees and guards, Client agrees that if Client (or its affiliates, agents, and other related persons or entities) is in breach of this section of the Agreement, then Client shall be required to pay to Company for each such employee (or former employee employed by Company) the sum of $7,500.00. Such fee is expressly agreed to be considered liquidated damages, and not a penalty.

8. **LIABILITY AND INDEMNITIES: (a)** Client agrees that Company is not an insurer and that the amounts payable hereunder are based upon the value of service offered and not the value of Client's interests being protected or the property of Client or others located on Client's premises. Accordingly, Company undertakes no liability to Client and makes no representation, express or implied, that its service will prevent occurrences or their consequences, which result in loss or damage.
(b) Client agrees that Company shall not be liable for any claims incurred or asserted by Client, irrespective of origin, to persons or property, whether directly or indirectly caused by performance or nonperformance of obligations imposed by this agreement or by negligent acts or omissions, including those relating to the hiring, training, supervision or retention of personnel, of Company, its agents or employees. **(c)** The services provided under this Agreement are solely for the benefit of Client and neither this Agreement nor any services rendered hereunder confer any rights on any other party as a third-party beneficiary or otherwise and Client agrees to indemnify and hold Company harmless from and against any claims made by a third party(s), including, but not limited to, injury, death or damage or loss of property, arising from the negligent acts or omissions, including those relating to the hiring, training, supervision or retention of personnel, of Company, its agents or employees.
(d) If, at Client's request, Company employees undertake duties or are requested to use equipment or vehicles other than as agreed to in writing by Company, Client shall be solely responsible for and shall indemnify and hold Company harmless from and against any claims arising there from, including, but not limited to, claims arising from the negligent acts or omissions including those relating to the hiring, training, supervision or retention of personnel, of Company, its agents or employees.
(e) Client hereby waives any and all rights of subrogation that any insurer of Client may have against Company. **(f)** Where Company is entitled to indemnification, Company shall have the right to tender defense of the claim to Client.

9. **FORCE MAJEURE:** The obligations of Company hereunder may be suspended during any period where performance is prevented by acts of God, civil or labor disturbances, or events beyond Company's reasonable economic control.

10. **HAZARDOUS OR DEFECTIVE CONDITIONS/MATERIALS: (a)** Client agrees that it will comply with OSHA Hazard Communication Standards and will indemnify and hold Company harmless from all claims, including injuries to Company's employees arising out of a condition existing at Client's premises or Client's violation of any safety or health related law or regulation. **(b)** Client further agrees to: (1) make available to Company the Material Safety Data Sheet for each hazardous chemical to which Company's employees may be exposed at Client's premises; (2) inform company of (A) precautionary measures that need to be taken to protect Company's employees and (B) Client's hazardous material labeling system.

11. **INSURANCE:** Client agrees to assume all risk of loss or damage to its premises, business and property of others on Client's premises occurring as a result of fire, theft or other casualty and Client agrees that it will maintain insurance to fully protect Client against such loss or damage. Accordingly, Client waives its right of recovery against Company of any such loss or damage, however caused.

12. **TERMINATION OF SERVICES:** Except as otherwise provided in this Agreement, this Agreement may be terminated for non-performance by either party, provided that such party has given the others reasonable time to correct any instances of such non- performance. If either party fails to correct such non-performance, the Agreement may be terminated, provided that such party has given the others at least thirty (30) days advance written notice of such intention. Notwithstanding the foregoing and for all other intentions, termination of services by Client must be preceded by at least thirty (30) days advance written notice of such intention to terminate services. Minimum 3-Month Service Agreement from start date.

13. **ENTIRE AGREEMENT AND INTERPRETATION:** This Agreement constitutes the entire agreement and understanding between the parties, and no representations, inducements, promises or agreements not embodied herein shall be of any force or effect. This Agreement shall be governed under the law of the State of its performance and if any provision shall conflict therewith, such provision shall be interpreted to remove such conflict, so that this Agreement and all its other provisions shall remain in full force and effect.

14. **DEFAULT:** Company may terminate this Agreement immediately and exercise such other rights and remedies as permitted by law, if Client fails to pay any amount when due or if any proceeding is commenced or threatened by or against Client under the Bankruptcy Code or any other Debtor's law, or if Client makes or threatens to make an assignment for the benefit of creditors.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have signed this Agreement as of the date first above written:

By GOOD GUARD SECURITY:

Brady Osorto — Brady Osorto / Business Development Manager

(Authorized Representative Signature) (Print Name & Title)

By CLIENT:

(Authorized Representative Signature) (Print Name & Title)

CHAPTER 9

CIVIL DEFENSE AND DISASTER

SECTION:

9-1: Purpose Of Chapter

9-2: Definitions

9-3: Emergency Council

9-4: Officers Of Emergency Council

9-5: Emergency Council Meetings

9-6: Duties Of Emergency Council

9-7: Powers Of Chairman Of Emergency Council

9-8: Exercises Or Drills

9-9: Acts Authorized Under Certain Conditions

9-10: Emergency Services Coordinator

9-11: Powers And Duties Of Coordinator

9-12: Emergency Powers Of Coordinator

9-13: Emergency Services Organization

9-14: Functions And Duties Of Emergency Service Organization

9-15: Acts Unlawful During Disasters

9-16: Penalty For Violation Of Chapter

9-1: PURPOSE OF CHAPTER:

The purposes of this chapter are to provide for the preparation and carrying out of plans for disaster and emergency services, the protection of persons and property within the city of Porterville in the event of a disaster, and to provide for the coordination of the disaster and emergency functions of the city with all other affected persons and agencies, both public and private. Any expenditures made in connection with such disaster or emergency services, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property in the city. (Ord. 987 § A, 10-6-1970)

9-2: DEFINITIONS:

Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:

DISASTER: Actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, riot, earthquake or other public calamity. It shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

EMERGENCY SERVICES: The preparation for carrying out disaster functions, other than functions for which military forces are primarily responsible, and to prevent, minimize and repair injury and damage resulting from disasters. It shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

EMERGENCY SERVICES OFFICE: The physical facilities constituting the Tulare operational area's primary emergency operating center, and the necessary staff and personnel to operate such facilities on a day to day or disaster emergency basis.

TULARE OPERATIONAL AREA: The unincorporated area of the county, and the cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia and Woodlake. (Ord. 987 § A, 10-6-1970)

9-3: EMERGENCY COUNCIL:

The emergency council of the Tulare operational area is hereby created and shall consist of the following members:

A. The chairman of the board of supervisors of the county. Said board of supervisors shall appoint an additional member of said board to serve as an alternate member of the emergency council when the chairman is absent from the county or is not immediately available to perform his duties.

B. The mayors of the cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia and Woodlake, or alternates appointed by the respective city councils.

C. Two (2) persons residing in the unincorporated area of the county who shall be appointed by the other members of the emergency council.

D. The emergency services coordinator of the county, who shall be an ex officio member and who shall not be entitled to a vote at the meetings of the emergency council. (Ord. 987 § A, 10-6-1970)

9-4: OFFICERS OF EMERGENCY COUNCIL:

The officers of the emergency council shall be a chairman, and such other officers as the council may deem necessary. The chairman of the board of supervisors shall serve as chairman of the council. When he is absent from the county or is not immediately available to perform his duties, the other member of the board of supervisors who is a member of the council shall serve as chairman. (Ord. 987 § A, 10-6-1970)

9-5: EMERGENCY COUNCIL MEETINGS:

The emergency council may hold regular meetings at a time and place established by the council. Special meetings of the council shall be called in accordance with section 54950 et seq., of the Government Code of the state of California. Special meetings may be called by the chairman or the alternate chairman designated pursuant to section 9-4 of this chapter. The council shall meet at least four (4) times each year. The council shall have the power to adopt rules and regulations governing the conduct of its meetings. (Ord. 987 § A, 10-6-1970)

9-6: DUTIES OF EMERGENCY COUNCIL:

It shall be the duty of the emergency council to review and recommend for adoption by the board of supervisors and the respective city councils, disaster and mutual aid plans and agreements, and such ordinances, resolutions, rules, regulations and budgets as are necessary to implement such plans and agreements. (Ord. 987 § A, 10-6-1970)

9-7: POWERS OF CHAIRMAN OF EMERGENCY COUNCIL:

The chairman of the emergency council is hereby empowered to perform the following acts:

A. Serve as the emergency services director of the Tulare operational area.

B. Request the city council of the city of Porterville to proclaim the existence or threatened existence of a local emergency and the termination thereof, if the city council is in session, or to issue such a proclamation if the city council is not in session, subject to confirmation by the city council at the earliest practicable time.

C. Request the mayor to request the governor to proclaim a state of disaster when in the opinion of the chairman the resources of the area are inadequate to cope with the disaster on a local basis. (Ord. 987 § A, 10-6-1970)

9-8: EXERCISES OR DRILLS:

The chairman of the emergency council shall order an exercise or drill of the entire emergency services organization at least once each year, and a minimum of two (2) exercises or drills for selected portions of the emergency operating center staff each year. Participation in required state or federal exercises, special drills for communications, radiological, fire, law enforcement or other specific services shall be in addition to the exercises or drills required hereinabove. (Ord. 987 § A, 10-6-1970)

9-9: ACTS AUTHORIZED UNDER CERTAIN CONDITIONS:

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of disaster by the governor or the director of the California disaster office, or in the event of a war caused state of

extreme emergency, the chairman, as the emergency services director of the Tulare operational area, is hereby empowered to perform the following acts:

A. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the emergency council.

B. Subject to the approval of the city council, to obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property of the people, and to bind the city for the fair value thereof and, if required, to commandeer the same immediately for public use.

C. Require emergency services of any city officer or employee, and in the event of the proclamation of a state of disaster or extreme emergency by the governor in the region in which the city is located, to commandeer the aid of as many citizens as he thinks necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities which are provided by state law for registered civil defense and disaster volunteer workers.

D. Requisition any necessary equipment or materials from any city department or agency.

E. Execute all of the special powers conferred upon him by this chapter or by resolution adopted pursuant thereto, all powers conferred upon him by any statute, by any agreement approved by city council, or by any other lawful authority. (Ord. 987 § A, 10-6-1970)

9-10: EMERGENCY SERVICES COORDINATOR:

There is hereby created the position of emergency services coordinator of the Tulare operational area who may be referred to as the coordinator. He shall serve as the executive officer of the Tulare operational area and his staff shall serve as the staff of the emergency services office. The board of supervisors of the county of Tulare shall consider the recommendations of the emergency council in the appointment or dismissal of the coordinator. (Ord. 987 § A, 10-6-1970)

9-11: POWERS AND DUTIES OF COORDINATOR:

The coordinator shall have the following general powers and duties:

A. Represent the emergency council and its chairman as their executive officer for the purpose of coordinating all efforts within the Tulare operational area for the accomplishment of the purposes of this chapter.

B. Identify and define questions of authority and responsibility that may arise between persons and agencies referred to in section 9-13 of this chapter and submit recommendations for resolving such matters to the chairman.

C. Represent the Tulare operational area in all dealings with public or private agencies pertaining to disaster or civil defense, when authorized by the chairman.

D. Prepare an operational plan with necessary service annexes and standing operating procedures to provide administrative guides for the Tulare operational area.

E. Plan and conduct exercises and drills, as ordered by the chairman, for the emergency services organization or for the emergency operating center staff. (Ord. 987 § A, 10-6-1970)

9-12: EMERGENCY POWERS OF COORDINATOR:

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of disaster by the governor, or in the event of a war caused state of extreme emergency, the coordinator is hereby empowered to perform the following acts:

A. Activate the emergency operating center including calling in, as necessary, service chiefs, standby staff and service dispatchers.

B. Cause the dissemination of appropriate warning signals and issue suitable advisory information to the emergency council, the emergency services organization and the public.

C. Advise the California disaster office of the local situation.

D. Request mutual aid through the California disaster office if local deficiencies of personnel and/or equipment are indicated by the service chiefs.

E. Order the provision of security for the emergency operating center and communications staff. (Ord. 987 § A, 10-6-1970)

9-13: EMERGENCY SERVICES ORGANIZATION:

All officers and employees of the county and the cities included in the Tulare operational area, together with those volunteer forces enrolled to aid them during a disaster and all groups, organizations and persons, including persons commandeered under the provision of subsection 9-9C of this chapter who by operation of law or agreement may be charged with duties incident to the protection of life and property in the city during such disaster, shall constitute the emergency service organization of the Tulare operational area. (Ord. 987 § A, 10-6-1970)

9-14: FUNCTIONS AND DUTIES OF EMERGENCY SERVICE ORGANIZATION:

The functions and duties of the emergency services organization shall be distributed among such divisions, services and special staff as the emergency council shall prescribe by resolution, subject to the approval of the board of supervisors of the county and the respective city councils. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the federal government and the California disaster office. (Ord. 987 § A, 10-6-1970)

9-15: ACTS UNLAWFUL DURING DISASTERS:

It shall be unlawful for any person to perform any of the following acts during a disaster:

A. Wilfully obstruct, hinder or delay any member of the emergency services organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon him by virtue of this chapter.

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter, if such act is of such a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent or delay the defense or protection thereof.

C. To wear, carry or display, without authority, any means of identification specified by the civil defense and disaster agency of the federal government or the state of California. (Ord. 987 § A, 10-6-1970)

9-16: PENALTY FOR VIOLATION OF CHAPTER:

Any person violating any of the provisions of this chapter which are declared to be unlawful shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment in the Tulare County jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. 987 § A, 10-6-1970)

State of California

GOVERNMENT CODE

Section 8558

8558. Three conditions or degrees of emergency are established by this chapter:

(a) "State of war emergency" means the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that an enemy attack is probable or imminent.

(b) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(c) (1) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, deenergization event, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage or deenergization event that requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(2) A local emergency proclaimed as the result of a deenergization event does not trigger the electric utility obligations set forth in Public Utilities Commission Decision 19-07-015 or its successor decisions as related to deenergization events. A local emergency proclaimed as the result of a deenergization event does not alter the electric

utilities' Public Utilities Commission-approved cost-recovery mechanisms for their own costs associated with deenergization events.

(Amended by Stats. 2022, Ch. 537, Sec. 1. (SB 468) Effective January 1, 2023.)

Porterville Army National Guard Armory

Temporary Evacuation Point and Shelter

Daily Census

Date:	Adults:	Youth:	Dogs:
Friday, May 5, 2023	12	0	1
Saturday, May 6, 2023	10	0	0
Sunday, May 7, 2023	10	0	0
Monday, May 8, 2023	15	0	1
Tuesday, May 9, 2023	12	0	0
Wednesday, May 10, 2023	8	0	0
Thursday, May 11, 2023	9	0	0
Friday, May 12, 2023	9	0	0
Saturday, May 13, 2023	7	0	0
Sunday, May 14, 2023	6	0	0
Monday, May 15, 2023	13	0	0
Tuesday, May 16, 2023	11	3	4
Wednesday, May 17, 2023	11	3	4
Thursday, May 18, 2023	16	3	4
Friday, May 19, 2023	11	0	3
Saturday, May 20, 2023	14	0	5
Sunday, May 21, 2023	12	0	4
Monday, May 22, 2023	14	0	3
Tuesday, May 23, 2023	14	5	3
Wednesday, May 24, 2023	16	3	3
Thursday, May 25, 2023	13	1	6
Friday, May 26, 2023	18	4	3
Saturday, May 27, 2023	16	5	5
Sunday, May 28, 2023	16	1	3
Monday, May 29, 2023	18	1	3

Tuesday, May 30, 2023	19	1	6
Wednesday, May 31, 2023	17	1	3
Thursday, June 1, 2023	19	1	7
Friday, June 2, 2023	17	1	7
Saturday, June 3, 2023	16	1	4
Sunday, June 4, 2023	20	1	8
Monday, June 5, 2023	20	1	6
Tuesday, June 6, 2023	22	1	10
Wednesday, June 7, 2023	23	1	9
Thursday, June 8, 2023	22	1	7
Friday, June 9, 2023	22	1	10
Saturday, June 10, 2023	15	1	6
Sunday, June 11, 2023	26	1	9
Monday, June 12, 2023	18	1	7
Tuesday, June 13, 2023	24	1	4
Wednesday, June 14, 2023	21	1	7
Thursday, June 15, 2023	20	1	4
Friday, June 16, 2023	28	1	6
Saturday, June 17, 2023	20	1	7
Sunday, June 18, 2023	24	1	4
Monday, June 19, 2023	21	0	8
Tuesday, June 20, 2023	28	0	6
Wednesday, June 21, 2023	28	0	4
Thursday, June 22, 2023	22	0	4
Friday, June 23, 2023	27	0	4
Saturday, June 24, 2023	26	0	4
Sunday, June 25, 2023	24	0	3
Monday, June 26, 2023	23	0	4
Tuesday, June 27, 2023	30	0	5

Wednesday, June 28, 2023	26	0	6
Thursday, June 29, 2023	27	0	5
Friday, June 30, 2023	25	0	5
Saturday, July 1, 2023	27	0	9
Sunday, July 2, 2023	25	3	3
Monday, July 3, 2023	24	3	3
Tuesday, July 4, 2023	20	3	4
Wednesday, July 5, 2023	28	2	6
Thursday, July 6, 2023	28	2	5
Friday, July 7, 2023	27	2	6
Saturday, July 8, 2023	28	2	5
Sunday, July 9, 2023	36	2	3
Monday, July 10, 2023	28	2	3
Tuesday, July 11, 2023	34	2	4
Wednesday, July 12, 2023	35	2	2
Thursday, July 13, 2023	47	2	7
Friday, July 14, 2023	27	2	0
Saturday, July 15, 2023	24	2	2
Sunday, July 16, 2023	24	2	3
Monday, July 17, 2023	26	2	1
Tuesday, July 18, 2023	26	2	2
Wednesday, July 19, 2023	21	2	1
Thursday, July 20, 2023	21	2	1
Friday, July 21, 2023	22	0	0
Saturday, July 22, 2023	22	0	0
Sunday, July 23, 2023	22	0	0
Monday, July 24, 2023	21	0	0
Tuesday, July 25, 2023	22	0	0
Wednesday, July 26, 2023	20	0	0

Thursday, July 27, 2023	27	0	0
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Saturday, July 29, 2023	22	0	0
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Tuesday, August 8, 2023	25	0	3
Wednesday, August 9, 2023	23	0	3
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Friday, August 11, 2023	23	0	5
Saturday, August 12, 2023	22	0	5
Sunday, August 13, 2023	29	0	6
Monday, August 14, 2023	25	0	5
Tuesday, August 15, 2023	21	0	5
Wednesday, August 16, 2023	23	0	6
Thursday, August 17, 2023	23	0	5
Friday, August 18, 2023	22	0	5
Saturday, August 19, 2023	23	0	5
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Monday, August 21, 2023	25	0	5
Tuesday, August 22, 2023	22	0	5
Wednesday, August 23, 2023	27	0	5
Thursday, August 24, 2023	22	0	5

Friday, August 25, 2023	25	0	5
Saturday, August 26, 2023	23	0	4
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Wednesday, October 4, 2023	22	2	4
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Wednesday, October 11, 2023	22	2	5
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Monday, October 16, 2023	24	2	5
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Thursday, October 19, 2023	30	2	5
Friday, October 20, 2023	17	2	5

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Friday, October 27, 2023	21	1	3
Saturday, October 28, 2023	21	1	3
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Monday, October 30, 2023	24	1	3
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Saturday, November 4, 2023	22	1	3
Sunday, November 5, 2023	19	1	3
Monday, November 6, 2023	23	1	3
Tuesday, November 7, 2023	27	1	3
Wednesday, November 8, 2023	22	1	3
Thursday, November 9, 2023	22	1	3
Friday, November 10, 2023	23	1	3
Saturday, November 11, 2023	21	1	3
Sunday, November 12, 2023	24	1	3
Monday, November 13, 2023	27	1	3
Tuesday, November 14, 2023	24	1	3
Wednesday, November 15, 2023	29	1	3
Thursday, November 16, 2023	29	0	3
Friday, November 17, 2023	25	0	3
Saturday, November 18, 2023	29	0	3

Sunday, November 19, 2023	29	0	3
Monday, November 20, 2023	29	0	3
Tuesday, November 21, 2023	29	0	3
Wednesday, November 22, 2023	29	0	3
Thursday, November 23, 2023	21	0	3
Friday, November 24, 2023	29	0	3
Saturday, November 25, 2023	27	0	3
Sunday, November 26, 2023	27	0	3
Monday, November 27, 2023	26	0	3
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Wednesday, November 29, 2023	29	0	3
Thursday, November 30, 2023	27	0	3
Friday, December 1, 2023	22	0	3
Saturday, December 2, 2023	25	0	3
Sunday, December 3, 2023	25	0	3
Monday, December 4, 2023	20	0	3
Tuesday, December 5 2023	25	0	3
Wednesday, December 6, 2023	30	0	3
Thursday, December 7, 2023	30	0	3
Friday, December 8, 2023	29	0	3
Saturday, December 9, 2023	25	0	3
Sunday, December 10, 2023	31	0	3
Monday, December 11, 2023	30	0	3
Tuesday, December 12, 2023	32	0	3
Wednesday, December 13, 2023	32	0	3
Thursday, December 14, 2023	35	0	3
Friday, December 15, 2023	30	0	3
Saturday, December 16, 2023	31	0	3
Sunday, December 17, 2023	29	0	3

Monday, December 18, 2023	26	0	3
Tuesday, December 19, 2023	25	1	3
Wednesday, December 20, 2023	31	0	3
Thursday, December 21, 2023	28	0	3
Friday, December 22, 2023	32	0	3
Saturday, December 23, 2023	29	0	3
Sunday, December 24, 2023	30	0	3
Monday, December 25, 2023	28	0	3
Tuesday, December 26, 2023	23	0	3
Wednesday, December 27, 2023	24	0	3
Thursday, December 28, 2023	28	0	3
Friday, December 29, 2023	23	0	3
Saturday, December 30, 2023	25	0	3
Sunday, December 31, 2023	28	0	3
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Tuesday, January 2, 2024	24	0	3
Wednesday, January 3, 2024	29	0	3
Thursday, January 4, 2024	21	0	3
Friday, January 5, 2025	22	0	3
Saturday, January 6, 2024	32	0	3
Sunday, January 7, 2024	29	0	3
Monday, January 8, 2024	26	0	3
Tuesday, January 9, 2024	27	0	3
Wednesday, January 10, 2024	34	0	3
Thursday, January 11, 2024	33	0	3
Friday, January 12, 2025	36	0	3
Saturday, January 13, 2024	35	0	3
Sunday, January 14, 2024	34	0	3
Monday, January 15, 2024	39	0	3

Tuesday, January 16, 2024	38	0	4
Wednesday, January 17, 2024	33	0	4
Thursday, January 18, 2024	33	0	4
Friday, January 19, 2025	33	0	4
Saturday, January 20, 2024	36	0	4
Sunday, January 21, 2024	38	0	4
Monday, January 22, 2024	36	1	4
Tuesday, January 23, 2024	34	1	4
Wednesday, January 24, 2024	32	1	4
Thursday, January 25, 2024	38	1	4
Friday, January 26, 2025	35	1	4
Saturday, January 27, 2024	32	1	4
Sunday, January 28, 2024	36	1	4
Monday, January 29, 2024	34	1	4
Tuesday, January 30, 2024	40	1	5
Wednesday, January 31, 2024	36	1	5
Thursday, February 1, 2024	36	1	5
Friday, February 2, 2024	36	1	5
Saturday, February 3, 2024	27	1	5
Sunday, February 4, 2024	33	1	5
Monday, February 5, 2024	29	1	5
Tuesday, February 6, 2024	33	1	5
Wednesday, February 7, 2024	37	1	5
Thursday, February 8, 2024	34	1	5
Friday, February 9, 2024	37	0	5
Saturday, February 10, 2024	38	0	5
Sunday, February 11, 2024	39	0	5
Monday, February 12, 2024	35	0	5
Tuesday, February 13, 2024	38	0	5

Wednesday, February 14, 2024	37	0	5
Thursday, February 15, 2024	35	0	5
Friday, February 16, 2024	38	0	5
Saturday, February 17, 2024	40	0	5
Sunday, February 18, 2024	38	0	5
Monday, February 19, 2024	41	0	5
Tuesday, February 20, 2024	43	0	5
Wednesday, February 21, 2024	36	0	5
Thursday, February 22, 2024	39	0	5
Friday, February 23, 2024	36	0	5
Saturday, February 24, 2024	36	0	5
Sunday, February 25, 2024	38	0	5
Monday, February 26, 2024	37	0	5
Tuesday, February 27, 2024	41	0	5
Wednesday, February 28, 2024	41	0	9
Thursday, February 29, 2024	33	0	9
Friday, March 1, 2024	34	0	9
Saturday, March 2, 2024	33	0	9
Sunday, March 3, 2024	33	0	9
Monday, March 4, 2024	35	0	9
Tuesday, March 5, 2024	38	0	9
Wednesday, March 6, 2024	35	0	9
Thursday, March 7, 2024	36	0	9
Friday, March 8, 2024	37	0	9
Saturday, March 9, 2024	37	0	9
Sunday, March 10, 2024	41	0	9
Monday, March 11, 2024	41	0	9
Tuesday, March 12, 2024	42	0	9
Wednesday, March 13, 2024	40	0	9

Thursday, March 14, 2024	40	0	9
Friday, March 15, 2024	42	0	9
Saturday, March 16, 2024	39	0	9
Sunday, March 17, 2024	39	0	9
Monday, March 18, 2024	40	0	9
Tuesday, March 19, 2024	42	0	9
Wednesday, March 20, 2024	38	0	9
Thursday, March 21, 2024	35	0	9
Friday, March 22, 2024	37	0	9
Saturday, March 23, 2024	42	0	9
Sunday, March 24, 2024	42	0	9
Monday, March 25, 2024	41	0	9
Tuesday, March 26, 2024	41	0	9
Wednesday, March 27, 2024	44	0	9
Thursday, March 28, 2024	40	0	9
Friday, March 29, 2024	45	0	9
Saturday, March 30, 2024	46	0	9
Sunday, March 31, 2024	34	0	9
Monday, April 1, 2024	46	0	9
Tuesday, April 2 2024	34	0	9
Wednesday, April 3, 2024	38	0	9
Thursday, April 4, 2024	38	0	9
Friday, April 5, 2024	31	0	9
Saturday, April 6, 2024	28	0	9
Sunday, April 7, 2024	33	0	9
Monday, April 8, 2024	38	0	9
Tuesday, April 9, 2024	41	0	9
Wednesday, April 10, 2024	39	0	9
Thursday, April 11, 2024	34	0	9

Friday, April 12, 2024	33	0	9
Saturday, April 13, 2024	38	0	9
Sunday, April 14, 2024	36	0	9
Monday, April 15, 2024	31	0	9
Tuesday, April 16, 2024	34	0	9
Wednesday, April 17, 2024	34	0	9
Thursday, April 18, 2024	33	0	9
Friday, April 19, 2024	29	0	9
Saturday, April 20, 2024	28	0	9
Sunday, April 21, 2024	29	0	9
Monday, April 22, 2024	28	0	9
Tuesday, April 23, 2024	28	0	9
Wednesday, April 24, 2024	28	0	9
Thursday, April 25, 2024	29	0	9
Friday, April 26, 2024	32	0	9
Saturday, April 27, 2024	30	0	9
Sunday, April 28, 2024	34	0	9
Monday, April 29, 2024	29	0	9
Tuesday, April 30, 2024	28	0	8
Wednesday, May 1, 2024	27	0	9
Thursday, May 2, 2024	26	0	9
Friday, May 3, 2024	29	0	9
Saturday, May 4, 2024	29	0	9
Sunday, May 5, 2024	34	0	9
Monday, May 6, 2024	30	0	9
Tuesday, May 7, 2024	30	0	9
Wednesday, May 8, 2024	30	0	9
Thursday, May 9, 2024	35	0	9
Friday, May 10, 2024	32	0	9

Saturday, May 11, 2024	30	0	9
Sunday, May 12, 2024	30	0	9
Monday, May 13, 2024	32	0	9
Tuesday, May 14, 2024	32	0	9
Wednesday, May 15, 2024	32	0	9
Thursday, May 16, 2024	33	0	9
Friday, May 17, 2024	36	0	9
Saturday, May 18, 2024	33	0	9
Sunday, May 19, 2024	38	0	9
Monday, May 20, 2024	34	0	8
Tuesday, May 21, 2024	30	0	9
Wednesday, May 22, 2024	30	0	9
Thursday, May 23, 2024	29	0	7
Friday, May 24, 2024	34	0	8
Saturday, May 25, 2024	35	0	9
Sunday, May 26, 2024	38	1	9
Monday, May 27, 2024	36	0	9
Tuesday, May 28, 2024	35	0	8
Wednesday, May 29, 2024	32	0	7
Thursday, May 30, 2024	31	0	7
Friday, May 31, 2024	29	0	8
Saturday, June 1, 2024	30	0	9
Sunday, June 2, 2024	34	0	10
Monday, June 3, 2024	33	0	9
Tuesday, June 4, 2024	27	0	8
Wednesday, June 5, 2024	32	0	9
Thursday, June 6, 2024	31	0	9
Friday, June 7, 2024	30	0	8
Saturday, June 8, 2024	33	0	9

Sunday, June 9, 2024	36	0	9
Monday, June 10, 2024	35	0	9
Tuesday, June 11, 2024	34	0	8
Wednesday, June 12, 2024	25	0	8
Thursday, June 13, 2024	30	0	10
Friday, June 14, 2024	39	0	10
Saturday, June 15, 2024	34	0	8
Sunday, June 16, 2024	34	0	8
Monday, June 17, 2024	32	0	9
Tuesday, June 18, 2024	34	0	10
Wednesday, June 19, 2024	33	0	9
Thursday, June 20, 2024	33	0	11
Friday, June 21, 2024	30	0	9
Saturday, June 22, 2024	27	0	8
Sunday, June 23, 2024	33	0	10
Monday, June 24, 2024	16	0	7
Tuesday, June 25, 2024	20	0	7
Wednesday, June 26, 2024	30	0	9
Thursday, June 27, 2024	30	0	9
Friday, June 28, 2024	33	0	10
Saturday, June 29, 2024	34	0	10
Sunday, June 30, 2024	34	0	10
Monday, July 1, 2024	30	0	10
Tuesday, July 2, 2024	35	0	11
Wednesday, July 3, 2024	27	0	9
Thursday, July 4, 2024	27	0	9
Friday, July 5, 2024	30	0	9
Saturday, July 6, 2024	29	0	9
Sunday, July 7, 2024	32	0	10

Monday, July 8, 2024	36	0	11
Tuesday, July 9, 2024	34	0	10
Wednesday, July 10, 2024	35	0	9
Thursday, July 11, 2024	35	0	9
Friday, July 12, 2024	26	0	8
Saturday, July 13, 2024	31	0	9
Sunday, July 14, 2024	35	0	10
Monday, July 15, 2024	36	0	11
Tuesday, July 16, 2024	33	0	10
Wednesday, July 17, 2024	29	0	9
Thursday, July 18, 2024	19	0	7
Friday, July 19, 2024	20	0	7
Saturday, July 20, 2024	22	0	8
Sunday, July 21, 2024	22	0	8
Monday, July 22, 2024	24	0	8
Tuesday, July 23, 2024	26	0	8
Wednesday, July 24, 2024	23	0	7
Thursday, July 25, 2024	24	0	8
Friday, July 26, 2024	22	0	7
Saturday, July 27, 2024	22	0	7
Sunday, July 28, 2024	23	0	7
Monday, July 29, 2024	23	0	7

SUBJECT: Landscape and Lighting Maintenance Districts Annual Assessments

SOURCE: Parks and Leisure Services

COMMENT: The City has created seventy-seven (77) Landscape and Lighting Maintenance Districts (LLMD's) since 1989. The original District had seventeen (17) areas annexed for new developments, in addition to the original area. Since 1996, new Districts have been formed for each new development, representing Districts 2 through 57.

Annually, a process of evaluating maintenance needs and establishing an assessment for each LLMD must be followed. At its meeting on July 16, 2024, the City Council approved the annual preliminary Engineer's Report which indicates the proposed assessments for the 2024-2025 Fiscal Year. The assessments, once approved by the Council, are placed upon the tax bill of property owners as a special assessment, and collected by the County of Tulare. The assessment process must be filed with the County by August 12, 2024, in order to be placed upon the tax rolls.

The Engineer's Report provides the financial details of each District. District fund balances are reviewed on an annual basis to determine funding needs for maintenance, as well as determining assessment requirements. Based on this analysis, staff was able to determine that not all Districts will be assessed this fiscal year.

RECOMMENDATION: That the City Council, pursuant to California Government Code Sections 54955 and 54955.1, adjourn, or if applicable order the City Clerk to adjourn, the Public Hearing and consideration of this item to the Adjourned Regular Meeting to be held at 4:00 p.m. on Friday, August 9th, 2024, to conduct a Public Hearing on the 2024-2025 assessments for the Landscape and Lighting Maintenance Districts to take comments or receive protests on the proposed assessments; and to adopt the draft Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer's Report and Assessments for the 2024-2025 Fiscal Year.

ATTACHMENTS:
1. Draft Resolution
2. Engineers Reports

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: Patrice Hildreth, City Manager

RESOLUTION NO.___-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ORDERING THE CONTINUED MAINTENANCE OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICTS AND CONFIRMING THE ENGINEER'S REPORT AND ASSESSMENT FOR 2024-2025 FISCAL YEAR

WHEREAS, the City Council of the City of Porterville did on the 16th day of July, 2024, adopt its Resolution of Intention No. 51-2024 to order the therein described work in connection with the continuation of assessment procedures in Landscape and Lighting Maintenance Districts, which Resolution of Intention No. 51-2024 was duly and legally published in the time, form and manner as required by Law, shown by the Affidavit of Publication of said Resolution of Intention on file in the Office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in the proceeding and concerning the necessity for the contemplated work and the benefits to be derived there from, and said City Council having now acquired jurisdiction to order the proposed work;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Porterville as follows:

SECTION 1. **IT IS HEREBY RESOLVED** by the City Council of the City of Porterville that the public interest and convenience require the continuation of assessment procedures for the districts, and said City Council hereby orders that the work and assessment, as set forth and described in said Resolution of Intention No. 51-2024 be done and made; and

SECTION 2. **BE IT FURTHER RESOLVED** that the report filed by the Engineer is hereby finally approved; and

SECTION 3. **BE IT FURTHER RESOLVED** that the assessments for fiscal year 2024-2025 and method of assessment in the Engineer's Report are hereby approved; and

SECTION 4. **BE IT FINALLY RESOLVED** that the assessments are in compliance with California Code, that they are without regard to property valuation, and in compliance with Chapter 1, Article 4, and Chapter 3, Division 15 of the Streets and Highway Code allowing the placement of the charge on the tax roll for collection.

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APPROVED, PASSED AND ADOPTED this 6th day of August, 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

CITY OF PORTERVILLE, CALIFORNIA
ENGINEER'S REPORT FOR
LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS
2024-2025 FISCAL YEAR

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville, Resolution Number. The report is in compliance with the requirements of Chapter 1, Article 4, and Chapter 3, Division 15 of the Streets and Highways Code, State of California (Landscaping and Lighting Act of 1972).

SECTION 2. General Description

The City Council has heretofore elected to place the permanent landscape area along Westwood Street of Westwood Estates, Unit 1, 2, and 3 subdivisions, into Landscape and Lighting Maintenance District No. 1 and to annex the permanent landscape areas along the perimeter streets of the following developments:

1. Annexation No. 2 = Hillcrest Street right-of-way, fire access road, Jasmine Drive entries; west perimeter including the parcel on which the water tank is located, viewpoint look-out parcel at the northwest corner of Jasmine Ranch Subdivision, and the pedestrian access to each cul-de-sac from Hillcrest Street.
2. Annexation No. 3 = Porter Creek Avenue right-of-way to the center line of the Porter Slough, median entry, 15' landscape area between Porter Creek Subdivision block wall to Westwood Street, the pedestrian access bridge over Porter Slough and all of the maintenance area to the center line of Porter Slough.
3. Annexation No. 4 = LaVida Park Subdivision green belt, east on Plum Way Street and the entries east along Beverly Street.
4. Annexation No. 5 = Westwood Estates #4 Subdivision, along the north and south entries adjacent to the block wall on Westwood Street and the median divider on White Chapel Lane including all trees in front yard planting strip.
5. Annexation No. 6 =Northpointe Subdivision includes lighting located south of Westfield Avenue and east of Mathew Street.
6. Annexation No. 10 = Westview Subdivision located on the corner of Westfield Avenue and Cobb Street.
7. Annexation No. 11 = New Horizons Phase One Subdivision and the remainder parcel located along Springville Ave, and Indiana Street.
8. Annexation No. 14 = Wisconsin Manor One Subdivision located on the corner of Wisconsin Way.
9. Annexation No. 16 = New Horizons Phase Two located on the corner of Indiana Street and Springville Avenue
10. Annexation No. 19 = Castle Woods Phase One Subdivision location along Castle Avenue and Newcomb Street.

11. District No. 2 = North Creek Estates located on Westwood north of Westfield.

12. District No. 3 = New Expressions Phase One Subdivision located along Indiana Street between Springville Avenue and Cleo Avenue.

13. District No. 4 = River Springs Phase One Subdivision located along Newcomb Street.

14. District No. 5 = Castle Woods Phase Two Subdivision located at Median Avenue and Salisbury.

15. District No. 6 = Creekview Estates located between Porter Creek Avenue and the property line in Porter Slough.

16. District No. 7 = Ford Estates located on the corner of Roby and Westwood Avenue.

17. District No. 8 = River Breeze located on Newcomb Street Between Pasty and Spring Streets.

18. District No. 12 = Westwood Estates, Unit Five, Phase Two, located on Henderson Avenue and Brandy Way.

19. District No. 15 = Meadowood, Phase One Subdivision, located on Newcomb Street, Cheryl Avenue and York Street.

20. District No. 16 = New Expressions Phase Two Subdivision, located on Lybarger Avenue Cul de Sac at the entry to the Tule River Parkway Trail.

21. District No. 17 = Orchard Ridge Phase Six Subdivision located north of Westfield Avenue between Michael Street and Lombardi Street on Julieann Avenue and Michael Street.

22. District No. 19 = Williams Ranch, Phase One Located south of Westfield Avenue on Silver Maple Street, Wall Court and San Lucia Court.

23. District No. 23 = River Estates Phase Three Subdivision located Roby Avenue, Belmont, Orange Avenue, Forest Avenue and Parkwest Street.

24. District No. 24 = Orchard Ridge, Phase Eight Subdivision located on Mathew Street, Michael Street, Pamela Avenue and Santa Maria Avenue.

25. District No. 25 = Casas Del Rio Subdivision located on Date Street, Casas Del Rio Avenue, Presidio Avenue, Rio Bonito Street, Alamo Court, Camellia Street, Tule Court and Rio Vista Avenue.

26. District No. 26 = Orchard Ridge, Phase Nine Subdivision located on Belmont Street, Pamela, Santa Maria and Pioneer Avenues.

27. District No. 31 = Williams Ranch, Phase Two and Three Subdivision on Westwood Street between Henderson and Westfield Avenues.

28. District No. 32 = Sunrise Villa, Phase One Subdivision located at Cottage Street and Mulberry Avenue.

29. District No. 33 = New Expressions, Phase Four Subdivision located on Indiana Street, between Springville Avenue and the Tule River.

30. District No. 34 = Meadow Breeze, Phase Two Subdivision located on Matthew Street, Michael Place, Verdugo Place, Lu Ann Place, Belmont Place, Brian Avenue and Castle Avenue.

31. District No. 35 = Meadow Breeze, Phase One Subdivision located on Pioneer Avenue and Salisbury Street.

32. District No. 38 = Ranch Victoria, Phase One Subdivision located on the north side of Putnam Avenue and east of Mathew Street.

33. District No. 40 = Amalene Estates Subdivision located on Westwood between the Tule River and Olive Avenue, including Vine Avenue, Clare Avenue, Clare Court, and Dogwood Street.

34. District No. 43 = Sierra Meadows Phase Two Subdivision located on Jaye Street and Gibbons Avenue and including Stacie, Yates and Melinda Avenues and Mesa Oak and Pearson Streets.

35. District No. 44 = Summit Estates, Phase One Subdivision located along Mathew Street and includes Orange Avenue and Lombardi and Argyle Streets.

36. District No. 46 = Moorea Manor Subdivision located along Newcomb and includes San Lucia Lane.

37. District 47 = Chelsea Glen Subdivision located east of Newcomb Avenue and south of Linda Vista Avenue including Chelsea Way, Shelly Lane, Becky Way, Kimberly Place and Ben Circle.

38. District No. 53 = Trooper Terrace Subdivision located on the east side of Westwood Street between Henderson Avenue and Luisa Avenue.

39. District No. 54 = Windsor Court Cambria Subdivision located on the northwest corner of Henderson Avenue and Elderwood Street.

SECTION 3. Plans and Specifications

The plans and specifications for the landscaping have been prepared by the developers' engineers and have been approved as part of the improvement plans for the various developments. The plans and specifications for the landscaping are in conformance with the requirements of the City Council's conditions of approval of said Parcel Maps and Subdivisions.

Reference is hereby made to said subdivision maps, parcel maps and assessment diagrams for the exact location of the landscape areas. The plans and specifications by reference are hereby made a part of this report to the same extent as if said plans and specifications were attached hereto.

SECTION 4. Improvements

Landscaping improvements will include landscaping the entry ways, medians and areas behind subdivision block wall.

SECTION 5. Estimated Maintenance Costs

Maintenance is currently being performed by City staff and contract services. Accordingly, the City's record-keeping will be required to be sufficiently accurate to detail the expenses incurred on behalf of each individual annexation so that these costs may be recaptured through assessments.

The City Finance Department presently maintains records of expenditures for each annexation. Because of the restrictions placed upon municipal budgets through the passage of Proposition No. 218 and the lag between the time assessments are made and revenues are collected by the City, it is appropriate that assessments be made in advance of the anticipated expenditures to provide working capital for the maintenance efforts. The fund balance for some districts would appear to justify a refund, however, it is clear that some of the costs for some of the districts have not been properly recognized. The staff is committed to identifying the discrepancies and rectifying them during this fiscal year. Refunds have been included in the form of one-time adjustments to the assessment reducing the amount actually assessed per lot.

The assessments include costs accumulated to date and estimated costs for the 2024-2025 Fiscal Year for Landscape and Lighting District No. 1, including Annexations 2, 3, 4, 5, 6, 10, 11, 14, 16 and 19; Districts 1, 2, 3, 4, 5, 6, 7, 8, 12, 15, 16, 17, 19, 23, 24, 25, 26, 31, 32, 33, 34, 35, 38, 40, 43, 44, 46, 47, 53, and 54.

SECTION 6. Assessment Diagram

Copies of the assessment diagrams were attached to each individual Engineer's Reports and were labeled "Exhibit A". An Index Map is attached to this report identifying the location of the original district and each annexation.

SECTION 7. Assessment

The City Council, in forming Landscape and Lighting Maintenance District No. 1 and in annexing territories to the district, has maintained the philosophy that the subdivider or developer is responsible for the plantings, irrigation system and the maintenance of the improvements until they become well established. The assessments for maintenance thus only include anticipated costs incurred subsequent to the acceptance of the system by the City Council on behalf of the Maintenance District.

An exception to this philosophy is at Annexation No. 1, Airport Industrial Park, where the owners and the City will share costs for the plantings and irrigation system and the maintenance of improvements.

The maintenance of the landscaping is vital for the protection of both economic and humanistic values of the development. The City Council has heretofore determined that for the preservation of values incorporated within developments adjacent to landscaped areas, the landscaped areas should be included in a maintenance district to ensure satisfactory levels of maintenance. The establishment of the assessment for each development must be on a unit by unit basis which will preserve the integrity of each project. There should be a review of each annexation and District to determine if there are changed conditions that effect the assessment.

The determination of benefit for the lots within the districts takes into consideration the facts for the original districts and all annexations thereto.

Following are estimated maintenance costs and assessments for each Annexation and District.

Westwood Estates Consolidated
District 1 Westwood Estates Subdivision,
Annexation 5 - Westwood Estates Unit 4 & Unit 5 Subdivision
District No. 12 - Westwood Estates Unit 5, Phase 2 Subdivision
Fiscal Year 2024/2025

Estimated Accumulated Costs 2023/2024			$ 39,437.84
Maintenance:	47,462	sq. ft. of landscaping area	
Lighting:	16	12 ea. @ 5,800 lumens	
		4 ea. @ 16,000 lumens	
Project Management:	207	lots	
Fund Balance:	$ (10,250.45)		

1. Landscape	47,462	sq.ft.	@	$ 0.200	=	$ 9,492.40
2. Utilities	47,462	sq.ft.	@	$ 0.140	=	$ 6,644.68
3. Repair/Maintenance	47,462	sq.ft.	@	$ 0.010	=	$ 474.62
4. Tree Maintenance	47,462	sq.ft.	@	$ 0.030		$ 1,423.86
5. Printing/Postage	47,462	sq.ft.	@	$ 0.0016	=	$ 75.94
6. Graffiti Maintenance	47,462	sq.ft.	@	$ 0.020	=	$ 949.24
				$ 0.402		$ 19,060.74

Maintenance	19,061	sq.ft.	x	0.402	=	$ 7,662.42
Administrative Fee	$ 19,060.74		x	$0.10	=	$ 1,906.07
County Fee	207		x	$1.00/per lot	=	$ 207.00
Reserves	15% of total cost of maintenance				=	$ 1,149.36
Eliminate deficit fund balance over 10 years - 10% of fund deficit					=	$ 1,025.05
						$ 11,949.90

Estimated Cost Per Year	**$ 11,949.90 / 207**	=	**$ 57.73**
2023/2024 Assessment	**$ 27,179.28 / 207**	=	**$ 131.30**
2024/2025 Assessment	**$ 41,089.50 / 207**	=	**$ 198.50**

Annexation No. 3 Porter Creek, District No. 2 North Creek, District No. 6 Creekview
Fiscal Year 2024/2025

Estimated Accumulated 2023/2024		$ 28,823.46
Maintenance:	125,477 sq.ft. of landscaping	
Project Management:	297 lots,lighting 5 lumens @ 5,800	
Fund Balance:	$ 16,449.79	

Maintenance

1. Landscape/Tree Maintenance	125,477 @	$	0.125	=	$	15,684.63
2. Grafitti Maintenance	125,477 @	$	0.02	=	$	2,509.54
3. Postage	125,477 @	$	0.005	=	$	627.39
4. Utilities	125,477 @	$	0.06	=	$	7,528.62
5. Printing	125,477 @	$	0.005	=	$	627.39
6. Repair/Maintenance	125,477 @	$	0.01	=	$	1,254.77
			0.225	=	$	28,232.33

Maintenance	125,477		$	0.23	=	$ 28,232.33
Administrative Fee	$ 28,232.33	x	$	0.10	=	$ 2,823.23
County Fee	297 lots	@ $1.00/per lot			=	$ 297.00
Reserves 15% of total cost of maintenance					=	$ 4,234.84
Eliminate Deficit Fund Balance over 10 years -		10% of fund deficit			=	$ -
		Total				$ 35,587.40

Estimated Cost Per Year:	**$35,587.40 / 297**	=	**$**	**119.82**
2024/2025 Assessment	**$20,005.40 / 297**	=	**$**	**67.36**

Annexation No. 2 - Jasmine Ranch
Fiscal Year 2024/2025
Maximum Assessment $8,000.00

Estimated Accumulated Costs 2023/2024							$	7,174.73
Maintenance:	22,100		sq.ft. of landscaping area					
Project Management:	22		lots					
Fund Balance:	$ 2,375.33							
1. Landscape	22,100	sq.ft.	@	$	0.190	=	$	4,199.00
2. Utilities	22,100	sq.ft.	@	$	0.150	=	$	3,315.00
3. Repair/Maintenance	22,100	sq.ft.	@	$	0.100	=	$	2,210.00
4. Tree Maintenance	22,100	sq.ft.	@	$	0.005	=	$	110.50
5. Printing/Postage	22,100	sq.ft.	@	$	0.004	=	$	88.40
				$	0.449	=	$	9,922.90

Maintenance	9,923	sq.ft.	x	$	0.449	=	$ 4,455.43
Administrative Fee	$ 9,922.90		x	$0.10			$ 992.29
County Fee	22		x	$1.00/per lot			$ 22.00
Reserves 15% of total cost of maintenance							$ 1,488.44
Eliminate deficit fund balance over 10 years - 10% of fund deficit							
							$ 6,958.16

FORMULA FOR ASSESSMENT

$$A = \text{Assessment per lot} = \frac{\text{Total Assessment} - F}{L}$$

L = Number of lots

F = Assessment for remainder parcel

The 2024/2025 assessment will be spread based upon the above formula. There are 22 lots in Unit One. The 47.89 acre remainder parcel is included on the final subdivision map and will be assessed 20% of the total estimated cost for landscaping maintenance until it is developed at which time it will be combined with the other completed units and assessed fully.

Estimated Assessment **F = $6958.16 x .20 = $1391.63 for remainder**
A = $6958.16-$2,485.13 = $203.32 per lot in Unit One

2023/2024 Assessment **F = $8,000 x .20 = $1,600.00 for remainder**
A = 8,000-1600 = $290.90 per lot in Unit One

2024/2025 Assessment **F = $8,000 x .20 = $1,600.00 for remainder**
A = 8,000-1600 = $290.90 per lot in Unit One

Annexation No. 4 - La Vida Park
Fiscal Year 2024/2025
Maximum Assessment $2,469.42

Estimated Accumulated Costs 2023/2024 $ 5,854.49

Maintenance:	3,790	sq. ft. of landscaping area, 437 feet of wall
Project Management:	17	lots
Fund Balance:	$(2,697.00)	

1. Landscape	3,790	sq.ft.	@ $	0.450	=	$ 1,705.50
2. Utilities	3,790	sq.ft.	@ $	0.400		$ 1,516.00
3. Repair/Maintenance	3,790	sq.ft.	@ $	0.150	=	$ 568.50
4. Tree Maintenance	3,790	sq.ft.	@ $	0.100	=	$ 379.000
5. Printing/Postage	3,790	sq.ft.	@ $	0.020	=	$ 75.80
			$	1.120	=	$ 4,244.80

Maintenance	3,790	sq.ft.	x $ 1.120	= $ 4,244.80
Administrative Fee	$ 4,244.80		x $ 0.10	$ 424.48
County Fee	17 lots		x $1.00/per lot	$ 17.00
Reserves 15% of total cost of maintenance				$ 636.72
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit				$ 269.70
				$ 5,592.70

Estimated Cost Per Year $ 5,592.70 / 17 = $ **328.98**

2023/2024 Assessment $ 2,469.42 / 17 = $ **145.26**

2024/2025 Assessment $ 2,469.42 / 17 = $ **145.26**

Annexation No. 6 - Northpointe Subdivision
Fiscal Year 2024/2025
Maximum Assessment $ 1,722.52

Estimated Accumulated Costs 2023/2024				$ 923.47
Maintenance:	lighting:	6 ea. @ 5,800 lumens 11 ea. @ 9,500 lumens 2 ea. @ 16,000 lumens		
Project Management:	81	lots		
Fund Balance:	$ 793.67			

1. Utilities	11 @ 5,800 lumens	x $ 104.16	=	$ 624.96
	8 @ 9,500 lumens	x $ 125.16	=	$ 1,376.76
2. Printing/Postage	1	@ $ 75.000	=	$ 75.00
				$ 2,076.72

e

Maintenance	$ 2,076.72	x 1	=	$ 2,076.72
Administrative Fee	$ 2,076.72	x $ 0.10	=	$ 207.67
County Fee	81	x $1.00/per lot	=	$ 81.00
Reserves 15% of total cost of maintenance				$ 311.51
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit				$ -
				$ 2,676.90

Estimated Cost Per Year	**$ 2,676.90 / 81**	=	**$ 33.05**
2023/2024 Assessment	**$ 1,045.80 / 81**	=	**$ 12.90**
2024/2025 Assessment	**$ 1,045.80 / 81**	=	**$ 12.90**

Annexation No. 10 - Westview Subdivision
Fiscal Year 2024/2025
Maximum Assessment $1,824.30

Estimated Accumulated Costs 2023/2024 $ 4,321.04

Maintenance:	1,307	sq.ft. of landscaping area
Lighting	4	ea. @ 5,800 lumens
Project Management:	16	lots
Fund Balance:	$ (1,534.01)	

1. Landscape	1,307	sq.ft.	@ $	0.600	=	$	784.20
2. Utilities	1,307	sq.ft.	@ $	0.400	=	$	522.80
3. Repair/Maintenance	1,307	sq.ft.	@ $	0.300	=	$	392.10
4. Printing/Postage	1,307	sq.ft.	@ $	0.058	=	$	75.81
			$	1.358	=	$	1,774.91

Maintenance	1,307	sq.ft.	x $	1.358	= $	1,774.91
Administrative Fee	$ 1,774.91		x $0.10		= $	177.49
County Fee	16		x $1.00/per lot		= $	16.00
Reserves 15% of total cost of maintenance					= $	266.24
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					= $	153.40
					$	2,388.04

Estimated Cost Per Year **$ 2,388.04 / 16 = $ 149.25**

2023/2024 Assessment **$ 1,824.30 / 16 = $ 114.02**

2024/2025 Assessment **$ 1,824.30 / 16 = $ 114.02**

Annexation No. 11 - New Horizons Phase 1 Subdivision
Fiscal Year 2024/2025
Maximum Assessment $1,045.80

Estimated Accumulated Costs 2023/2024						$ 863.07
Maintenance:		lighting:	6 ea. @ 5,800 lumens			
			11 ea. @ 9,500 lumens			
			2 ea. @ 16,000 lumens			
Project Management:		63	lots			
Fund Balance:	$	(1,120.60)				
1. Utilities	6 @ 5,800 lumens		x $	104.16	=	$ 624.96
	11 @ 9,500 lumens		x $	125.16	=	$ 1,376.76
	2 @ 16,000 lumens		x $	327.36	=	$ 327.36
2. Printing/Postage	1		@ $	75.000	=	$ 75.00
						$ 2,404.08

Maintenance	$	2,404.08	x	1	=	$ 2,404.08
Administrative Fee	$	2,404.08	x $	0.10	=	$ 240.41
County Fee		63	x $1.00/per lot		=	$ 63.00
Reserves 15% of total cost of maintenance					=	$ 360.61
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					=	$ 112.06
						$ 3,180.16

Estimated Cost Per Year $\frac{\$\ 3,180.16}{63} = \$\ 50.48$

2023/2024 Assessment $\frac{\$\ 1,045.80}{63} = \$\ 16.60$

Annexation No. 14 - Wisconsin Manor 1 Subdivision
Fiscal Year 2024/2025
Maximum Assessment $1,824.69

Estimated Accumulated Costs 2023/2024	$	799.50

Maintenance:	3,030	sq.ft. of landscaping area
Lighting:	3 ea. @	5,800 lumens
Project Management:	8	lots
Fund Balance:	$ (642.94)	

1. Landscape	3,030	sq.ft.	@	$ 0.050	=	$	151.50
2. Utilities	3,030	sq.ft.	@	$ 0.130	=	$	393.90
3. Repair/Maintenance	3,030	sq.ft.	@	$ 0.030	=	$	90.90
4. Printing/Postage	3,030	sq.ft.	@	$ 0.025		$	75.75
				$ 0.235	=	$	712.05

Maintenance	3,030	sq.ft.	x	$ 0.235	= $	712.05
Administrative Fee	$ 712.05		x	$0.10	= $	71.21
County Fee	8 lots		x	$1.00/per lot	= $	8.00
Reserves	15% of total cost of maintenance				$	106.81
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					$	64.29
					$	962.36

Estimated Cost Per Year	**$ 962.36 / 8**	= $	**120.29**
2023/2024 Assessment	**$ 1,824.69 / 8**	= $	**228.08**
2024/2025 Assessment	**$ 1,824.69 / 8**	= $	**228.08**

Annexation No. 16 - New Horizon's Phase Two Subdivision
Fiscal Year 2024/2025

Estimated Accumulated Costs 2023/2024	$	721.92

Maintenance: Lighting: 8 each @ 5,800 lumens
Project Management: 81 lots
Fund Balance: $ 519.24

1. Utilities	8	lumens @	$	52.08	=	$	416.64
2. Printing/Copying	81	@	$	1.00	=	$	81.00
						$	497.64

Maintenance	$	497.64	x	1	=	$	497.64
Administrative Fee	$	497.64	x	$0.10	=	$	49.76
County Fee		81	x	$1.00/per lot	=	$	81.00
Reserves 15% of total cost of maintenance					=	$	74.65
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit						$	-
						$	703.05

Estimated Cost Per Year	**$**	**703.05** / **81**	=	**$**	**8.68**
2023/2024 Assessment	**$**	**703.05** / **81**	=	**$**	**8.68**
2024/2025 Assessment	**$**	**703.05** / **81**	=	**$**	**8.68**

Annexation No. 19 - Castle Woods Phase 1 Subdivision
Fiscal Year 2024/2025
Maximum Assessment $919.20

Estimated Accumulated Costs 2023/2024 $477.41

Maintenance:	lighting:	9 ea. @ 5,800 lumens 1 ea. @ 16,000 lumens	
Project Management:	30	lots	
Fund Balance:	$ 97.01		

1. Utilities	9 @ 5,800 lumens	x	$ 104.160	=	$ 937.44
	1 @ 16,000 lumens	x	$ 327.36	=	$ 327.36
2. Printing/Postage	1	@	$ 75.00	=	$ 75.00
					$ 1,339.80

Maintenance	$ 1,339.80	x	1	=	$ 1,339.80
Administrative Fee	$ 1,339.80	x	$ 0.10	=	$ 133.98
County Fee	30	x	$1.00/per lot	=	$ 30.00
Reserves 15% of total cost of maintenance					$ 200.97
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					
					$ 1,704.75

Estimated Cost Per Year $ 1,704.75 / 30 = **$ 56.83**

2023/2024 Assessment $ 919.20 / 30 = **$ 30.64**

2024/2025 Assessment $ 919.20 / 30 = **$ 30.64**

District No. 3 - New Expressions Phase 1 Subdivision
Fiscal Year 2024/2025
CPI Approved 1998 Maximum Assessment $1,296.59

Estimated Accumulated Costs 2023/2024							$	469.41
Maintenance: lighting:	10 ea.	@	5,800 lumens each					
Project Management:	56	lots						
Fund Balance:	$ 393.42							
							Formula	
1 Utilities	10 ea.	@	$	30.21	=		$	302.10
2 Printing/Copying	1	@	$	50.00	=		$	50.00
							$	352.10

Maintenance	$ 352.10	x	1	=		$	352.10
Administrative Fee	$ 352.10	x	$ 0.10	=		$	35.21
County Fee	56	x	$1.00/per lot	=		$	56.00
Reserves 15% of total cost of maintenance				=		$	52.82
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit				=		$	-
						$	496.13

Estimated Cost Per Year	**$ 496.13**	=	**$**	**8.86**
	56			
2023/2024 Assessment	**$ 446.13**	=	**$**	**7.97**
	56			
2024/2025 Assessment	**$ 496.13**	=	**$**	**8.86**
	56			

District No. 4 - River Springs Phase 1 Subdivision
Fiscal Year 2024/2025
Approved CPI 2003 (Adjusted 2003)
Maximum Assessment $3,134.58

Estimated Accumulated Costs 2023/2024		$ 5,518.79

Maintenance:	2,100	sq.ft. of landscaping area
Project Management:	51 lots	
Fund Balance:	$ (3,312.30)	

1. Landscape	2,100	sq.ft. @	$	0.980	=	$	2,058.00
2. Utilities	2,100	sq.ft. @	$	0.380	=	$	798.00
3. Repair/Maintenance	2,100	sq.ft. @	$	0.030	=	$	63.00
4. Printing/Postage	2,100	sq.ft. @	$	0.036	=	$	75.39
			$	1.426	=	$	2,994.39

Maintenance	2,100	sq.ft.	x	$ 1.426	=	$	2,994.39
Administrative Fee	$ 2,994.39		x	$ 0.10	=	$	299.44
County Fee	51 lots		x	$1.00/per lot	=	$	51.00
Reserves	15% of total cost of maintenance				=	$	449.16
Eliminate Deficit Fund Balance over 10 years -	10% of fund deficit				=	$	331.23
						$	4,125.22

Estimated Cost Per Year	**$ 4,125.22**	=	$	**54.71**
	51			
2023/2024 Assessment	**$ 3,134.58**	=	$	**61.46**
	51			
2024/2025 Assessment	**$ 3,134.58**	=	$	**61.46**
	51			

District No. 5 - Castle Woods Phase 2 Subdivision
Fiscal Year 2024/2025
Maximum Assessment $1,021.48
Approved CPI 2002 (Adjusted 2008)

Estimated Accumulated Costs 2023/2024						$	2,017.52
Maintenance:	1,715	sq.ft. of landscaping area					
Lighting:	8 ea. @ 5,800 lumens						
Project Management:	25 lots						
Fund Balance:	$ (12,566.46)						
1. Landscape	1,715	sq.ft.	@ $	0.400	=	$	686.00
2. Utilities	1,715	sq.ft.	@ $	0.300	=	$	514.50
3. Repair/Maintenance	1,715	sq.ft.	@ $	0.030	=	$	51.45
4. Printing/Postage	1,715	sq.ft.	@ $	0.044	=	$	75.46
			$	0.774	=	$	1,327.41
Maintenance	1,715	sq.ft.	x $	0.774	=	$	1,327.41
Administrative Fee	$ 1,327.41		x $	0.10	=	$	132.74
County Fee	25 lots		x $1.00/per lot		=	$	25.00
Reserves	15% of total cost of maintenance				=	$	199.11
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					=	$	1,256.65
						$	2,940.91
Estimated Cost Per Year			**$ 2,940.91** / **25**		=	**$**	**117.64**
2023/2024 Assessment			**$ 1,021.48** / **25**		=	**$**	**40.86**
2024/2025 Assessment			**$ 1,021.48** / **25**		=	**$**	**40.86**

District No. - 7 Ford Estates
Fiscal Year 2024/2025
Approved CIP 1999
(Adjusted 1999)
Maximum Assessment $2,857.88

Estimated Accumulated Costs 2023/2024 $ 4,388.40

Maintenance:	1,365	sq.ft. of landscaping area
Lighting:	5	4 ea. @ 5,800 lumens
		1 ea. @ 16,000 lumens
Project Management:	20	lots
Fund Balance:	$ (613.62)	

1. Landscape	1,365	sq.ft.	@	$ 1.150	=	$ 1,569.75
2. Utilities	1,365	sq.ft.	@	$ 0.500	=	$ 682.50
3. Repair/Maintenance	1,365	sq.ft.	@	$ 0.130	=	$ 177.45
4. Printing/Postage	1,365	sq.ft.	@	$ 0.055	=	$ 75.08
				$ 1.835	=	$ 2,504.78

Maintenance	1,365	sq.ft.	x	$ 1.835	=	$2,504.78
Administrative Fee	$ 2,504.78		x	$0.10	=	$ 250.48
County Fee	20 lots		x	$1.00/per lot	=	$ 20.00
Reserves	15% of total cost of maintenance					$ 375.72
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit						$ (61.36)
						$3,212.34

Estimated Cost Per Year **$ 3,212.34 / 20 = $ 160.62**

2023/2024 Assessment **$ 2,857.88 / 20 = $ 142.88**

2024/2025 Assessment **$ 2,857.88 / 20 = $ 142.88**

District No. 8 - River Breeze Subdivision
Fiscal Year 2024/2025
Approved CPI 2003
(Adjusted 2003)
Maximum Assessment $5,043.35

Estimated Accumulated Costs 2023/2024 $ 3,726.17

Maintenance:	1,000	sq.ft. of landscaping area , 25,600 sq.ft. of fire break
Lighting:	9	8 ea. @ 5,800 lumens 1 ea. @ 16,000 lumens
Lot:	37	
Fund Balance:	$ 643.63	

1. Landscape	1,000	sq.ft.	@	$	2.000	= $	2,000.00
2. Utilities	1,000	sq.ft.	@	$	0.750	= $	750.00
3. Repair/Maintenance	1,000	sq.ft.	@	$	0.030	= $	30.00
4. Tree Maintenance	1,000	sq.ft.	@	$	0.450	= $	450.00
5. Printing/Postage	1,000	sq.ft.	@	$	0.075	= $	75.00
				$	3.305	= $	3,305.00

Maintenance	1,000	sq.ft.	x	$ 3.305	= $	3,305.00
Administrative Fee	$ 3,305.00		x	$0.10	= $	330.50
County Fee	37 lots		x	$1.00/per lot	= $	37.00
Reserves	15% of total cost of maintenance				$	495.75
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					$	-
					$	4,168.25

Estimated Cost Per Year **$ 4,168.25** / **37** = $ 112.66

2023/2024 Assessment **$ 1,917.86** / **37** = $ 51.82

2024/2025 Assessment **$ 3,726.17** / **37** = $100.70

District No. 15 - Meadowood Phase 1
Fiscal Year 2024/2025
Approved CPI 2001 (Adjusted 2001)
Maximum Assessment $8,191.95

Estimated Accumulated Costs 2023/2024 $ 4,808.92

Maintenance:	7,723	sq.ft. of landscaping area
Lighting:	14	10 ea. @ 5,800 lumens
		1 ea. @ 9,500 lumens
		3 ea. @ 16,000 lumens
Project Management:	48	
Fund Balance:	$ (1,623.81)	

1. Landscape	7,723	sq.ft.	@	$ 0.025 0	=	$	193.08
2. Utilities	7,723	sq.ft.	@	$ 0.500	=	$	3,861.50
3. Repair/Maintenance	7,723	sq.ft.	@	$ 0.020	=	$	154.46
4. Tree Maintenance	7,723	sq.ft.	@	$ 0.020 0	=	$	154.46
5. Printing/Postage	7,723	sq.ft.	@	$ 0.0098	=	$	75.69
				$ 0.575		$	4,439.18

Maintenance	7,723	sq.ft.	x	$ 0.575	=	$ 4,439.18
Administrative Fee	$ 4,439.18		x	$ 0.10	=	$ 443.92
County Fee	48 lots		x	$1.00/per lot	=	$ 48.00
Reserves 15% of total cost of maintenance					=	$ 665.88
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					=	$162.38
						$5,759.36

Estimated Cost Per Year $ 5,759.36 / 48 = **$ 119.99**

2023/2024 Assessment $ 5,764.89 / 48 = **$ 120.10**

2024/2025 Assessment $ 6,484.89 / 48 = **$ 135.10**

District No. 16 - New Expressions Phase 2
Fiscal Year 2024/2025

Estimated Accumulated 2023/2024				$	4,438.41
Maintenance:	5,800 sq.ft. of landscaping, Playground area 30%				
Project Management:	54 lots, lighting 13 lumens @ 5,800				
Fund Balance:	$ 486.23				

Maintenance

1. Landscape/Tree Maintenance	5,800 @ $	0.350	=	$	2,030.00
2. Grafitti Maintenance	5,800 @ $	0.010	=	$	58.00
3. Postage	5,800 @ $	0.025	=	$	145.00
4. Utilities	5,800 @ $	0.012	=	$	69.60
5. Printing	5,800 @ $	0.140	=	$	812.00
6. Repair/Maintenance	5,800 @ $	0.025	=	$	145.00
		0.562	=	$	3,259.60

Maintenance	5,800 x	$ 0.562	=	$	3,259.60
Administrative Fee	$ 3,259.60 x	$ 0.100	=	$	325.96
County Fee	54 lots @	$1.00/per lot	=	$	54.00
Reserves 15% of total cost of maintenance			=	$	488.94
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit			=	$	-
	Total			$	4,128.50

Estimated Cost Per Year:	**$ 4,128.50**	=	**$**	**76.44**
	54			
2023/2024 Assessment	**$ 4,334.93**	=	**$**	**80.28**
	54			
2024/2025 Assessment	**$ 4,334.93**	=	**$**	**80.28**
	54			

District No. 17 Orchard Ridge Phase 6
Fiscal Year 2024/2025
Approved CPI 2007
Maximum Assessment $633.36

Estimated Accumulated Costs 2023/2024	$	347.69

Maintenance:	lighting	7 ea. @ 5,800 lumens
Project Management:	32	lots
Fund Balance:	$ 96.22	

1. Utilities	7 @ 5,800 lumens	@	$ 104.1600	=	$	729.12
2. Printing	1	@	$ 50.0000	=	$	50.00
					$	779.12

Maintenance	$ 779.12	x	1	=	$	779.12
Administrative Fee	$ 779.12	x	$ 0.10	=	$	77.91
County Fee	32	x	$1.00/per lot	=	$	32.00
Reserves 15% of total cost of maintenance				=	$	116.87
Eliminate Deficit Fund Balance over 10 years -	10% of fund deficit			=	$	-
					$	1,000.90

Estimated Cost Per Year	**$ 1,000.90 / 32**	=	**$ 31.28**
2023/2024 Assessment	**$ 633.36 / 32**	=	**$19.78**
2024/2025 Assessment	**$ 633.36 / 32**	=	**$19.78**

District No.19 - William Ranch Phase 1
Fiscal Year 2024/2025
Approved CPI 2002 (Adjusted 2008)
Maximum Assessment $7,027.83

Estimated Accumulated Costs 2023/2024 $ 7,488.95

Maintenance:	7,723	sq.ft. of landscaping area
Lighting:	14	10 ea. @ 5,800 lumens
		1 ea. @ 9,500 lumens
		3 ea. @ 16,000 lumens
Project Management:	41	
Fund Balance:	$ (3,259.50)	

1. Landscape	13,910	sq.ft.	@	$ 0.120	=	$	1,669.20
2. Utilities	13,910	sq.ft.	@	$ 0.150	=	$	2,086.50
3. Repair/Maintenance	13,910	sq.ft.	@	$ 0.020	=	$	278.20
5. Tree Maintenance	13,910	sq.ft.	@	$ 0.050	=	$	695.50
4. Printing/Postage	13,910	sq.ft.	@	$ 0.0054	=	$	75.11
				$ 0.3454		$	4,804.51

Maintenance	13,910	sq.ft.	x	$ 0.3454	=	$	4,804.51
Administrative Fee	$ 4,804.51		x	$ 0.10	=	$	480.45
County Fee	48 lots		x	$1.00/per lot	=	$	48.00
Reserves 15% of total cost of maintenance					=	$	720.68
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					=		$325.95
						$	6,379.59

Estimated Cost Per Year	**$ 6,379.59 / 41**	=	**$**	**155.60**
2023/2024 Assessment	**$ 6,019.59 / 41**	=	**$**	**146.82**
2024/2025 Assessment	**$ 7,027.83 / 41**	=	**$**	**171.40**

District No.23 - River View
Fiscal Year 2024/2025
Approved CPI 2002
Maximum Assessment $840.44

Estimated Accumulated Costs 2023/2024						$ 509.97
Maintenance:	lighting	11 ea. @ 5,800 lumens				
Project Management:	66	lots				
Fund Balance:	$ 420.00					
1. Utilities	11 @ 5,800 lumens	@	$ 104.1600	=	$	1,145.76
2.Printing/ Postage	1	@	$ 75.0000	=	$	75.00
					$	1,220.76
Maintenance	$ 1,220.76	x	1	=	$	1,220.76
Administrative Fee	$ 1,220.76	x	$ 0.10	=	$	122.08
County Fee	66	x	$1.00/per lot	=	$	66.00
Reserves 15% of total cost of maintenance				=	$	183.11
Eliminate Deficit Fund Balance over 10 years -	10% of fund deficit	=		=	$	-
					$	1,591.95
Estimated Cost Per Year	**$ 1,591.95 / 66**			=	**$**	**24.49**
2023/2024 Assessment	**$ 840.44 / 66**			=	**$**	**12.72**
2024/2025 Assessment	**$ 840.44 / 66**			=	**$**	**12.72**

District No. 24 - Orchard Ridge Phase 8
Fiscal Year 2024/2025
Approved CIP 2003
Adjusted 2008
Maximum Assessment $2,607.14

Estimated Accumulated Costs 2023/2024					$	3,313.18
Maintenance:	3,538	sq.ft. of landscaping area				
Project Management:	44 lots					
Fund Balance:	$ (14,038.42)					
1. Landscape	3,538	sq.ft. @	$ 0.190	=	$	672.22
2. Utilities	3,538	sq.ft. @	$ 0.360	=	$	1,273.68
3. Repair/Maintenance	3,538	sq.ft. @	$ 0.030	=	$	106.14
4. Tree Maintenance	3,538	sq.ft. @	$ 0.050	=	$	176.90
5. Printing/Postage	3,538	sq.ft. @	$ 0.021	=	$	75.01
			$ 0.651	=	$	2,303.95
Maintenance	3,538	sq.ft. x	$ 0.65	=	$	2,303.95
Administrative Fee	$ 2,303.95	x	$ 0.10	=	$	230.39
County Fee	44	x	$1.00/per lot	=	$	44.00
Reserves	15% of total cost of maintenance			=	$	345.59
Eliminate Deficit Fund Balance over 10 years -	10% of fund deficit			=	$	1,403.84
					$	4,327.77
Estimated Cost Per Year			**$ 4,327.77 / 44**	=	**$**	**98.36**
2023/2024 Assessment			**$ 2,607.14 / 44** =		**$**	**59.24**
2024/2025 Assessment			**$ 2,607.14 / 44** =		**$**	**59.24**

District No. 25 - Casas del Rio Subdivision
Fiscal Year 2024/2025
Approved CPI 2003
(Adjusted 2003)
Maximum Assessment $33,112.96

Estimated Accumulated Costs 2023/2024						$	16,230.92
Maintenance:	55,950		sq. ft. of landscaping are				
Project Management:	118		lots				
Fund Balance:	$ 4,221.32						
1. Landscape	55,950	sq.ft.	@	$ 0.150	=	$	8,392.50
2. Utilities	55,950	sq.ft.	@	$ 0.060	=	$	3,357.00
3. Repair/Maintenance	55,950	sq.ft.	@	$ 0.070	=	$	3,916.50
4. Tree Maintenance	55,950	sq.ft.	@	$ 0.020		$	1,119.00
5. Printing/Postage	55,950	sq.ft.	@	$ 0.00135	=	$	75.53
6. Graffiti Maintenance	55,950	sq.ft.	@	$ 0.005	=	$	279.75
				$ 0.306		$	17,140.28
Maintenance	55,950	sq.ft.	x	0.306	=	$	17,140.28
Administrative Fee	$ 17,140.28		x	$0.10	=	$	1,714.03
County Fee	118		x	$1.00/per lot	=	$	118.00
Reserves	15% of total cost of maintenance				=	$	2,571.04
Eliminate deficit fund balance over 10 years - 10% of fund deficit					=		
						$	21,543.35

Estimated Cost Per Year	**$ 21,543.35** / **118**	=	**$ 182.57**
2023/2024 Assessment	**$ 22,610.32** / **118**	=	**$ 191.61**
2024/2025 Assessment	**$ 22,610.32** / **118**	=	**$ 191.60**

District 26 - Orchard Ridge Phase 9 Subdivision
Fiscal Year 2024/2025
Maximum Assessment $910.98

Estimated Accumulated Costs 2023/2024 $ 469.41

Maintenance: Lighting:14 each @ 5,800 lumens, 5 each @ 9,500 lumens
Project Management: 78 lots
Fund Balance: $ 193.20

1. Utilities	10 lumens @	$30.21	=	$	422.94
2. Printing/Copying	1 @	$50.00	=	$	50.00
				$	472.94

Maintenance	$ 472.94	x 1	=	$	472.94
Administrative Fee	$ 472.94	x $0.10	=	$	47.29
County Fee	47	x $1.00/per lot	=	$	47.00
Reserves 15% of total cost of maintenance			=	$	70.94
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit				$	-
				$	638.18

Estimated Cost Per Year	**$ 638.18 / 47**	=	**$ 13.58**
2023/2024 Assessment	**$ 910.98 / 47**	=	**$ 19.38**
2024/2025 Assessment	**$ 910.98 / 47**	=	**$ 19.38**

District No. 31 - Williams Ranch Phase 2 & 3 Subdivision
Fiscal Year 2024/2025
Approved CPI 2006 (Adjusted 2006)
Maximum Assessment $2,303.51

Estimated Accumulated Costs 2023/2024 $ 4,763.47

Maintenance:	6,512	sq.ft. of landscaping area, 437 feet of wall
Lighting:	26	24 ea. @ 5,800 lumens
		2 ea. @ 16,000 lumens
Project Management:	85	
Fund Balance:	$ (25,877.14)	

1. Landscape	6,512	sq.ft.	@ $	0.190	= $	1,237.28
2. Utilities	6,512	sq.ft.	@ $	0.080	= $	520.96
3. Repair/Maintenance	6,512	sq.ft.	@ $	0.040	= $	260.48
4. Tree Maintenance	6,512	sq.ft.	@ $	0.130	= $	846.56
5. Printing/Postage	6,512	sq.ft.	@ $	0.0115	= $	74.89
6. Graffiti Maintenance	6,512	sq.ft.	@ $	0.025	= $	162.80
			$	0.477	$	3,102.97

Maintenance	3,103	sq.ft.	x $	0.477	= $	1,480.12
Administrative Fee	$ 3,102.97		x $	0.10	= $	310.30
County Fee	85 lots		x	$1.00/per lot	= $	85.00
Reserves 15% of total cost of maintenance					= $	465.45
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit =					$	2,587.71
					$	4,928.58

Estimated Cost Per Year **$ 4,928.58 / 85 = $ 57.98**

2023/2024 Assessment **$ 2,303.51 / 85 = $ 27.10**

2024/2025 Assessment **$ 2,303.51 / 85 = $ 27.10**

District No. 32 - Sunrise Villa Phase 1-3
Fiscal Year 2024/2025
Approved CPI 2006
Maximum Assessment $1,513.54

Estimated Accumulated Costs 2023/2024 $ 591.15

Maintenance:	lighting	13ea. @ 5,800 lumens
Project Management:	54	lots
Fund Balance:	$ 400.16	

1. Utilities	13 @ 5,800 lumens	@	$	30.2100	=	$ 392.73
2. Printing	1	@	$	50.0000	=	$ 50.00
						$ 442.73

Maintenance	$ 442.73	x		1	=	$ 442.73
Administrative Fee	$ 442.73	x	$	0.10	=	$ 44.27
County Fee	54	x	$1.00/per lot		=	$ 54.00
Reserves 15% of total cost of maintenance					=	$ 66.41
Eliminate Deficit Fund Balance over 10 years -		10% of fund deficit			=	=
						$ 607.41

Estimated Cost Per Year $\frac{\$ \quad 607.41}{54} =$ **$ 11.25**

2023/2024 Assessment $\frac{\$ \quad 525.18}{54} =$ **$ 9.72**

2024/2025 Assessment $\frac{\$ \quad 540.00}{54} =$ **$ 10.00**

District No. 33 - New Expressions Phase 4 Subdivision
Fiscal Year 2024/2025
Approved CPI 2006
(Adjusted 2006)
Maximum Assessment $1,504.87

Estimated Accumulated Costs 2023-2024	$	752.49

Maintenance:	220 ft. of wall	
Lighting:	11 ea. @ 5,800 lumens	
	2 ea. @ 9,500 lumens	
Project Management:	58 lots	
Fund Balance:	$ 222.43	

1. Utilities	11 @ 5,800 lumens	@	$ 104.160	=	$	1,145.76
	2 @ 9,500 lumens	@	$ 125.160	=	$	250.32
2. Printing/Postage	1	@	$ 75.000	=	$	75.00
					$	1,471.08

Maintenance	$ 1,471.08	x	1	=	$	1,471.08
Administrative Fee	$ 1,471.08	x	$ 0.10	=	$	147.11
County Fee	58 lots	x	$1.00/per lot	=	$	58.00
Reserves 15% of total cost of maintenance					$	220.66
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					$	-
					$	1,896.85

Estimated Cost Per Year	**$ 1,896.85 / 58**	=	**$**	**32.70**
2023/2024 Assessment	**$ 752.44 / 58**	=	**$**	**12.96**
2024/2025 Assessment	**$ 752.44 / 58**	=	**$**	**12.96**

District No. 34 - Meadow Breeze Phase 2
Fiscal Year 2024/2025
Approved CPI 2006
(Adjusted 2006)
Maximum Assessment $1,928.30

Estimated Accumulated Costs 2023/2024			$	428.84
Maintenance:	lighting:	14 ea. @ 5,800 lumens 5 ea. @ 9,500 lumens		
Project Management:	78	lots		
Fund Balance:	$ (2,652.63)			

1. Utilities	14 @ 5,800	@ $104.16	=	$	1,458.24
	5 @ 9,500	@ $125.06	=	$	625.30
2. Printing/Postage	1	@ $75.00	=	$	75.00
				$	2,158.54

Maintenance	$	2,158.54	x	1	=	$ 2,158.54
Administrative Fee	$	2,158.54	x	$0.10	=	$ 215.85
County Fee		78	x	$1.00/per lot	=	$ 78.00
Reserves 15% of total cost of maintenance					=	$ 323.78
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit						$ 265.26
						$ 3,041.44

Estimated Cost Per Year	**$ 3,041.44 / 78**	=	**$**	**38.99**
2023/2024 Assessment	**$ 1,928.30 / 78**	=	**$**	**24.72**
2024/2025 Assessment	**$ 1,928.30 / 78**	=	**$**	**24.72**

District No. 35 - Meadow Breeze Phase 1
Fiscal Year 2024/2025
Approved CPI 2006
(Adjusted 2006)
Maximum Assessment $1,001.39

Estimated Accumulated Costs 2023/2024					$	894.32
Maintenance:	lighting:	9 ea @ 5,800 lumens				
Project Management:	44	lots				
Fund Balance:	$ (2,590.90)					
Utilities					Formula	
1. Utilities	9 lumens	@ $	104.16	=	$	937.44
2. Printing/Postage	1	@ $	75.00	=	$	75.00
					$	1,012.44
Maintenance	$ 1,012.44	x	1	=	$	1,012.44
Administrative Fee	$ 1,012.44	x $	0.10	=	$	101.24
County Fee	44 lots	x $1.00/per lot		=	$	44.00
Reserves 15% of total cost of maintenance					$	151.87
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					$	259.09
					$	1,568.64

Estimated Cost Per Year	**$ 1,568.64 / 44**	=	**$**	**35.65**
2023/2024 Assessment	**$ 1,001.39 / 44**	=	**$**	**22.76**
2024/2025 Assessment	**$ 1,001.39 / 44**	=	**$**	**22.76**

District No.38 - Ranch Victoria, Phase One Subdivision
Fiscal Year 2024/2025
Approved CPI 2007
(Adjusted 2008)
Maximum Assessment $529.89

Estimated Accumulated Costs 2023/2024	$	497.53

Maintenance:	lighting:	2 ea. lumens @ 5,800
Project Management:	6	lots
Fund Balance:	$ (511.03)	

						Formula	
1. Utilities	2 lumens	@	$	104.16	=	$	208.32
2. Printing/Postage	1	@	$	75.00	=	$	75.00
						$	283.32

Maintenance	$	283.32	x	1	=	$	283.32
Administrative Fee	$	283.32	x	$ 0.10	=	$	28.33
County Fee		6	x	$1.00/per lot	=	$	6.00
Reserves 15% of total cost of maintenance						$	42.50
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit						$	51.10
						$	411.26

Estimated Cost Per Year	**$ 411.26 / 6**	=	**$**	**68.54**
2023/2024 Assessment	**$ 529.89 / 6**	=	**$**	**88.32**
2024/2025 Assessment	**$ 529.89 / 6**	=	**$**	**88.32**

District No. 40 - Amalene Estates
Fiscal Year 2024/2025
Approved CPI 2007 (Adjusted 2007)
Maximum Assessment $7648.22

Estimated Accumulated Costs 2023/2024		$ 5,103.75
Maintenance:	5,445	sq. ft. of landscaping area, 736 ft. of wall
Lighting:	17	16 ea. @ 5,800 lumens
		1 ea. @ 16,000 lumens
Project Management:	26	lots
Fund Balance:	$ 6.62	

1. Landscape	5,445	sq.ft.	@	$ 0.400	= $	2,178.00
2. Utilities	5,445	sq.ft.	@	$ 0.250	= $	1,361.25
3. Repair/Maintenance	5,445	sq.ft.	@	$ 0.040	= $	217.80
4. Tree Maintenance	5,445	sq.ft.		$ 0.040	$	217.80
5. Printing/Postage	5,445	sq.ft.	@	$ 0.0138	$	75.14
				$ 0.744	$	4,049.99

Maintenance	4,050	sq.ft.	x	$ 0.744	= $	3,013.19
Administrative Fee	$ 4,049.99		x	$0.10	= $	405.00
County Fee	26		x	$1.00/per lot	= $	26.00
Reserves	15% of total cost of maintenance				= $	607.50
Eliminate deficit fund balance over 10 years - 10% of fund deficit					= $	-
					$	4,051.69

Estimated Cost Per Year **$ 4,051.69 / 26 = $ 155.83**

2023/2024 Assessment **$ 5,560.82 / 26 = $ 213.88**

2024/2025 Assessment **$ 5,560.82 / 26 = $213.88**

District No. 43 - Sierra Meadows Phase 2
Fiscal Year 2024/2025
Approved CPI 2008
(Adjusted 2008)
Maximum Assessment $18,564.42

Estimated Accumulated Costs 2023/2024 $ 11,294.13

Maintenance:	27,960	sq.ft. of landscaping area, 2,614 of wall
Lighting:	36	28 ea. @ 5,800 lumens
		8 ea. @ 16,000 lumens
Project Management:	61	lots
Fund Balance:	$ 984.52	

1. Landscape	27,960	sq. ft.	@	$ 0.150	=	$	4,194.00
2. Utilities	27,960	sq.ft.	@	$ 0.071	=	$	1,993.55
3. Repair/Maintenance	27,960	sq.ft.	@	$ 0.006	=	$	164.96
4. Tree Maintenance	27,960	sq.ft.	@	$ 0.004	=	$	111.84
5. Printing/Postage	27,960	sq.ft.	@	$ 0.0027	=	$	75.49
				$ 0.234		$	6,539.84

Maintenance	27,960	sq.ft.	x	$ 0.23700	=	$	6,626.52
Administrative Fee	$ 2,481.71		x	$ 0.10	=	$	248.17
County Fee	61 lots		x	$1.00/per lot	=	$	61.00
Reserves 15% of total cost of maintenance					=	$	980.98
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit =						$	-
						$	7,916.67

Estimated Cost Per Year **$ 7,916.67 / 61 = $ 129.78**

2023/2024 Assessment **$ 8,154.17 / 61 = $ 133.66**

District No.44 - Summit Estates Phase 1 Subdivision
Fiscal Year 2024/2025
Approved CPI 2008
(Adjusted 2008)
Maximum Assessment $5,629.48

Estimated Accumulated Costs 2023/2024		$ 5,775.43

Maintenance:	4,300	sq.ft. of landscaping area, 242 ft. of wall, and
Lighting:	23	20 ea. @ 5,800 lumens
		3 ea. @ 9,500 lumens
Project Management:	70	
Fund Balance:	$ 321.41	

1. Landscape	4,300	sq.ft.	@	$ 0.400	=	$	1,720.00
2. Utilities	4,300	sq.ft.	@	$ 0.080	=	$	344.00
3. Repair/Maintenance	4,300	sq.ft.	@	$ 0.040	=	$	172.00
4. Tree Maintenance	4,300	sq.ft.	@	$ 0.100	=	$	430.00
5. Printing/Postage	4,300	sq.ft.	@	$ 0.010	=	$	43.00
6. Graffiti Maintenance	4,300	sq.ft.	@	$ 0.0176	=	$	75.68
				$ 0.648	=	$	2,784.68

Maintenance	4,300	sq.ft.	x	$ 0.648	=	$ 2,784.68
Administrative Fee	$ 2,784.68		x	$ 0.10	=	$ 278.47
County Fee	69		x	$1.00/per lot	=	$ 69.00
Reserves	15% of total cost of maintenance				=	$ 417.70
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					=	
						$ 3,549.85

Estimated Cost Per Year	**$ 3,549.85** / **69**	=	**$**	**51.45**
2023/2024 Assessment	**$ 5,100.73** / **69** =		**$**	**73.92**
2024/2025 Assessment	**$ 5,629.48** / **69**		**$**	**81.58**

District No. 46- Moorea Manor
Fiscal Year 2024/2025
Approved CPI 2009
(Adjusted 2009)

Estimated Accumulated Costs 2023/2024						$	3,585.32
Maintenance:	1,460		sq. ft. of landscaping area, 286 ft. of wall				
Lighting:	4		4 ea. @ 5,800 lumens				
Project Management:	16		lots				
Fund Balance:	$ (1,991.30)						
1. Landscape	1,460	sq.ft.	@	$	1.850	= $	2,701.00
2. Utilities	1,460	sq.ft.	@	$	0.500	= $	730.00
3. Printing/Postage	1,460	sq.ft.	@	$	0.052	= $	75.92
4. Graffiti Maintenance	1,460	sq.ft.	@	$	0.140	= $	204.40
				$	2.542	$	3,711.32
Maintenance	1,460	sq.ft.	x		2.540	= $	3,711.32
Administrative Fee	$ 3,711.32		x		$0.10	= $	371.13
County Fee	16		x		$1.00/per lot	= $	16.00
Reserves	15% of total cost of maintenance					= $	556.70
Eliminate deficit fund balance over 10 years - 10% of fund deficit						= $	199.13
						$	4,854.28

Estimated Cost Per Year **$ 4,854.28 / 16 = $ 303.39**

2023/2024 Assessment **$ 4,854.28 / 16 = $ 293.16**

District No. 47 - Chelsea Glen Subdivision
Fiscal Year 2024/2025

Estimated Accumulated Costs 2023/2024 $ 4,536.93

Maintenance:	4,560	sq. ft. of landscaping area
Lighting	12	ea. @ 16,000 lumens
Project Management:	87	lots
Fund Balance:	$ 2,679.89	

1. Landscape	4,560	sq.ft.	@ $	0.190	=	$	866.40
2. Utilities	4,560	sq.ft.	@ $	0.250	=	$	1,140.00
3. Repair/Maintenance	4,560	sq.ft.	@ $	0.030	=	$	136.80
4. Tree Maintenance	4,560	sq.ft.	@ $	0.150	=	$	684.00
5. Printing/Postage	4,560	sq.ft.	@ $	0.0166	=	$	75.70
6. Graffiti Maintenance	4,560	sq.ft.	@ $	0.090	=	$	410.40
			$	0.727	=	$	3,313.30

Maintenance	4,560	sq.ft.	x $	0.750	=	$ 3,420.00
Administrative Fee	$ 3,420.00		x $0.10		=	$ 342.00
County Fee	87		x $1.00/per lot		=	$ 87.00
Reserves 15% of total cost of maintenance					=	$ 496.99
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit					=	$ -
						$ 4,345.99

Estimated Cost Per Year **$ 4,345.99 / 87 = $ 49.95**

2024/2025 Assessment **$ 2,998.52 / 87 = $ 34.46**

District No.53 - Trooper Terrace
Fiscal Year 2024/2025

Estimated Accumulated Costs 2023/2024 $ 2,371.98

Maintenance:	4,414	sq. ft. of landscaping area
Lighting	11	ea. @ 5,800 lumens
Project Management:	17	lots
Fund Balance:	$ (415.22)	

1. Landscape	4,414	sq.ft.	@	$ 0.090	=	$	397.26
2. Graffiti Maintenance	4,414	sq.ft.	@	$ 0.050	=	$	220.70
3. Tree Maintenance	4,414	sq.ft.	@	$ 0.080	=	$	353.12
4. Printing/Postage	4,414	sq.ft.	@	$ 0.017	=	$	75.04
5. Utilities	4,414	sq.ft.	@	$ 0.250	=	$	1,103.50
6. Repair/Maintenance	4,414	sq.ft.	@	$ 0.030	=	$	132.42
				$ 0.517	=	$	2,282.04

Maintenance	4,414	sq.ft.	x $ 0.517	=	$	2,282.04
Administrative Fee	$ 2,282.04		x $0.10	=	$	228.20
County Fee	17		x $1.00/per lot	=	$	17.00
Reserves 15% of total cost of maintenance				=	$	342.31
Eliminate Deficit Fund Balance over 10 years - 10% of fund deficit				=	$	41.52
					$	2,911.07

Estimated Cost Per Year **$ 2,911.07 / 17 = $ 171.24**

2024/2025 Assessment **$ 1,500.55 / 17 = $ 88.26**

District 54 - Cambria Windsor Court
Fiscal Year 2024/2025

Estimated Accumulated 2023/2024		$ 4,681.54
Maintenance:	33,256 sq.ft. of landscaping	
Project Management:	80 lots, lighting 11 lumens @ 5,800	
Fund Balance:	$ 3,034.29	

Maintenance

1. Landscape/Tree Maintenance	33,256 @	$ 0.120	=	$	3,990.72
2. Grafitti Maintenance	33,256 @	$ 0.025	=	$	831.40
3. Tree Maintenance	33,256	0.045		$	1,496.52
4. Postage/Printing	33,256 @	$ 0.003	=	$	99.77
5. Utilities	33,256 @	$ 0.060	=	$	1,995.36
6. Repair/Maintenance	33,256 @	$ 0.050	=	$	1,662.80
		0.303	=	$	10,076.57

Maintenance	33,256	$ 0.303	=	$	10,076.57
Administrative Fee	$ 10,076.57 x	$ 0.100	=	$	1,007.66
County Fee	80 @ $1.00/per lot		=	$	80.00
Reserves 15% of total cost of maintenance			=	$	1,511.49
Eliminate Deficit Fund Balance over 10 years -	10% of fund deficit		=	$	-
	Total			$	12,675.71

Estimated Cost Per Year:	**$ 12,675.71** / **80**	=	**$**	**158.44**
2023/2024 Assessment	**$ 4,137.22** / **80**	=	**$**	**51.72**
2024/2025 Assessment	**$ 4,137.22** / **80**	=	**$**	**51.72**

This concludes the 2024/2025 Landscape and Lighting District Engineer's Report.
Javier Sanchez, Jr., 70356



RESOLUTION NO. -2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, ORDERING PROCEEDINGS FOR THE ANNEXATION OF ROYAL OAKS PHASE 2 LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT INTO NUMBER 56, ORDERING PREPARATION OF A DISTRICT MAP INDICATING THE PROPOSED DISTRICT BOUNDARY FOR THE DISTRICT, ASSIGNING AN ENGINEER OF WORK, AND ORDERING THE PREPARATION OF THE ENGINEER'S REPORT

WHEREAS, it has been determined by the City Council of the City of Porterville that the public interest, convenience and necessity required the installation and planting of landscape materials, the installation and construction of irrigation systems, the installation of lighting and other facilities set forth in Section 22525 of the Streets and Highways Code, State of California; and

WHEREAS, the cost for operation and maintenance of the landscaping and lighting improvements is to be determined and considered for assessment to the benefiting properties; and

WHEREAS, Section 22622 requires that an Engineer's Report be prepared to establish new Landscape and Lighting Maintenance Districts, and outlining the initial assessments to be levied against the properties within each assessment district.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Porterville as follows:

1. That the public interest, convenience and necessity required the annexation of Landscape and Lighting Maintenance District number 56 as authorized by Section 22525 of the Streets and Highways Code, State of California.

2. That proceedings are to be conducted for the formation of said Landscape and Lighting Maintenance Districts.

3. That the properties to be specifically charged for maintenance of landscaping and lighting improvements shall be located within the boundary of the proposed district, and maps to illustrate said boundaries are hereby ordered to be prepared.

4. That Javier Sanchez be appointed as "Engineer of Work" with all applicable provisions of Article 4, Division 15 of the Landscape and Lighting Act of 1972 applied to said "Engineer of Work".

5. That the cost of maintaining the landscape and lighting facilities in said Landscape and Lighting Maintenance District shall be borne by the property owners within the district, and said cost shall be assessed according to said 1972 Act.

6. That the Engineer of Work is hereby ordered to prepare a report for the District in accordance with Article 4, Division 15 of said 1972 Act.

APPROVED AND ADOPTED THIS 16th day of July, 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga, Acting Chief Deputy City Clerk

RESOLUTION NO. -2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, GIVING PRELIMINARY APPROVAL OF ENGINEER'S REPORT FOR LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT 56

WHEREAS, on the 16th day of July, 2024 said City Council did direct by Resolution that the Engineer of Work was to make and file with the City Clerk of said City a report in writing for each subdivision as required by the Landscaping and Lighting Act of 1972; and

WHEREAS, said Engineer of Work has made and filed with the City Clerk of said City each report in writing as called for in said Resolution and under and pursuant to said Act, which reports have been presented to this Council for consideration; and

WHEREAS, said Council has duly considered said reports and each and every part thereof, and finds that each and every part of said reports is sufficient, and that said reports nor any part thereof, requires or should be modified; and

WHEREAS, reference is hereby made to said Engineer's Reports for further, full and more particular description of proposed Assessment Districts, and the same Engineer's Reports so on file, shall govern for all details as to the extent of said Assessment Districts.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Porterville as follows:

1. That the Engineer's Estimate of the itemized costs and expenses of said work and of the incidental expenses in connection therewith, contained in said reports be, and each of them are hereby preliminarily approved and confirmed.

2. That the diagram showing the Assessment District referred to and described in said reports, the boundaries of the subdivision of land within said Assessment District as the same existed at the time of passage of said Resolution, are hereby preliminarily approved and confirmed.

3. That the proposed assessments upon the subdivisions of land in each said Assessment District is in proportion to the estimated benefit to be received by said subdivisions, respectively, from said work and of the incidental expenses thereof, as contained in said report, is hereby preliminarily approved and confirmed.

4. That said reports shall stand as the Engineer's Report for the purposes of all subsequent proceedings pursuant to each of the proposed districts.

APPROVED AND ADOPTED THIS 16th day of July, 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga, Acting Chief Deputy City Clerk

RESOLUTION NO. -2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, DECLARING ITS INTENTION TO FORM AN ASSESSMENT DISTRICT AND TO LEVY AND COLLECT ASSESSMENTS IN THE LANDSCAPE AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; DECLARING THE WORK TO BE OF MORE LOCAL THAN ORDINARY PUBLIC BENEFIT; SPECIFYING THE EXTERIOR BOUNDARIES OF THE AREAS WITHIN THE LANDSCAPE MAINTENANCE DISTRICT, THE COST AND EXPENSE THEREOF, AND THE AMOUNT EACH PARCEL THEREIN IS INITIALLY TO BE ASSESSED; DESIGNATING SAID DISTRICT AS LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS, DETERMINING THAT THESE PROCEEDINGS SHALL BE TAKEN PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972; OFFERING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO; WITH SAID PROCEEDINGS PERTAINING TO DISTRICT 56

The City Council of the City of Porterville, pursuant to the provisions of the Landscaping and Lighting Act of 1972, being Division 15 of the Streets and Highways Code of the State of California, does resolve as follows:

SECTION 1. DESCRIPTION OF WORK

That the public interest and convenience requires it is the intention of the City Council of the City of Porterville, California, to order the following work be done, to wit:

1. Maintenance and servicing of facilities and landscaping as authorized by Section 22424 of the Streets and Highways code.

2. Any and all work and materials appurtenant thereto or which are necessary or convenient for the maintenance and servicing thereof.

SECTION 2. LOCATION OF WORK

The foregoing described work is to be located within the following areas:

1. Right-of-way, easements, and public lands within Royal Oaks Phase 2 Subdivision, more particularly described on maps which are on file in the City Clerk's office entitled "Landscape and Lighting Maintenance District No. 56."

SECTION 3. DESCRIPTION OF ASSESSMENT DISTRICT

That the contemplated work is of more local than ordinary public benefit, and the expense of said work is chargeable upon districts, which districts are to be assessed to pay the cost and expenses thereof, and said districts are described as follows:

All that certain territory of the City of Porterville, included within the exterior boundary line shown upon respective Maps of Landscape and Lighting Maintenance District number 56, which Maps are on file in the Office of the City Clerk of said City.

SECTION 4. REPORT OF ENGINEER

The City Council of said City by Resolution has approved the reports of the Engineer of Work, which reports indicate the amount of the proposed assessment, the district boundary, detailed description of improvements, and the method of assessment. The Engineer's Report for Landscape and Lighting Maintenance District No. 56, and Landscaping and Lighting Maintenance District No. 56 are on file in the Office of the City Clerk of said City, and were prepared for the 2024-2025 fiscal year in accordance with the Landscaping and Lighting Act of 1972. Reference to said reports is hereby made for all particulars for the amount and extent of the assessments and for the extent of the work.

SECTION 5. COLLECTION OF ASSESSMENTS

The assessment shall be collected at the time and in the same manner as County taxes are collected. The Engineer of Work shall file a report annually with the City Council of said City and said Council will annually conduct a hearing upon said report at a regular meeting held between March and June, at which time assessments for the next fiscal year will be determined

SECTION 6. TIME AND PLACE OF HEARING

Notice is hereby given that on the 6th day of August 2024, at the hour of 6:30 p.m. in the City Council Chambers at 291 North Main Street, in the City of Porterville, any and all persons having any objections to the work or extent of the assessment districts may appear and show cause why said work should not be done or carried out in accordance with Resolution of Intention. The City Council will consider all oral and written protests.

SECTION 7. LANDSCAPING AND LIGHTING ACT OF 1972

All the work herein proposed shall be done and carried through in pursuance of an act of the legislature of the State of California designated the Landscaping and Lighting Act of 1972, being Division 15 of the Streets and Highways Code of the State of California.

SECTION 8. PUBLICATION OF RESOLUTION OF INTENTION

Published notice shall be made pursuant to Section 6061 of the Government Code. The publication of the Notice of Hearing shall be completed at least 10 days prior to the date of hearing.

SECTION 9. CERTIFICATION

The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 16th day of July, 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga, Acting Chief Deputy City Clerk

CITY OF PORTERVILLE
ENGINEER'S REPORT FOR LANSCAPING AND LIGHTING
MAINTENANCE DISTRICT NO. 56

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No. -2024. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include landscaping and lighting at Royal Oaks Subdivision **Phases One and Two** into the Landscape and Lighting Maintenance District No. 56. The City Council has determined that the areas to be landscaped and lighted will have an effect upon all parcels within the proposed boundaries of the District. The areas for street lights are included on all the streets within the subdivision. The landscaping and masonry wall includes a landscaped area along South Indiana Street and Brown Avenue, a neighborhood park, and the ¼ mile long trail along the Poplar Ditch. The landscape and wall maintenance includes: irrigation, mowing, pruning, cleaning, repairing, painting, vegetation and rodent control, and an amount set aside for replacement.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 58. Total landscaped area to be maintained is 2,492 lineal feet of masonry wall, and 43,965 square feet of landscaped area.

Maintenance activities within the Landscape and Lighting Maintenance District No. 56 are to include landscape and lighting maintenance.

**Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2024/2025 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year's cost or the prior year's estimated cost adjusted according to the annualized Consumer Price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2024/2025 will refer back to the prior year's CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled "Landscape and Lighting Maintenance District No. 56 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 56. The establishment and maintenance of the improvements is a vital part of the development of Royal Oaks Subdivision. The City Council of Porterville has determined that to ensure satisfactory levels of maintenance for the landscape and lighting at Royal Oaks Subdivision, it should become Landscape and Lighting Maintenance District No. 56. The subdivision consists of 191 Lots. The Landscape area, which benefits the 191 lots, is located South Indiana Street and Brown Avenue, and along the trail of Poplar Ditch.

3. City Council Adopts Resolution of Intention to Order the Annexation of Landscape and Lighting Maintenance District No. 56 and determines the district.
4. City Council adopts Resolution Ordering the Improvements and the Annexation of Landscape and Lighting Maintenance District No. 56.
5. Every year between April and August the Engineer of Work file a report with the City Council.
6. Every year between April and August, the City Council conducts a public hearing and approves, or modifies the individual assessments.

_____

Javier Sanchez, Jr.
Engineer of the Work

SUBJECT: Establishing the Annexation of Royal Oaks Phase 2 Landscape and Lighting Maintenance District into District 56

SOURCE: Parks and Leisure Services

COMMENT: New subdivisions within the City are required to petition for the formation of a Maintenance Assessment District. The Districts are formed to secure funding from parcels within the subdivisions for operational and maintenance expenses of public lighting and any public landscape areas. The City utilizes the authority governed by the 1972 Landscape and Lighting Assessment Act to create a District for each subdivision. Thereafter, every year, a process must be followed of evaluating maintenance needs and establishing an assessment to be placed upon the tax rolls for every parcel within each District.

The attached draft Resolutions are necessary to initiate the process of annexing the Royal Oaks Phase 2 subdivision into District 56. The draft Resolution orders the annexation of the new district, approves the Engineer's Report which accompanies this report, and declares the intent to levy and collect tax assessments.

RECOMMENDATION: That the City Council, pursuant to California Government Code Sections 54955 and 54955.1, adjourn, or if applicable, order the City Clerk to adjourn, the Public Hearing and consideration of this item to the Adjourned Regular Meeting to be held at 4:00 p.m. on Friday, August 9th, 2024, to conduct the Public Hearing to receive public comment on the Annexation of Royal Oaks Phase 2 Landscape and Lighting Maintenance District into District Number 56; and adopt the draft Resolution approving the Engineer's Report and assessment method.

ATTACHMENTS:

1. Draft Resolution
2. Locator Map Royal Oaks
3. Royal Oaks Engineers Report

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: Patrice Hildreth, City Manager

RESOLUTION NO.____-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, ESTABLISHING THE ANNEXATION OF LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT 56, APPROVING ENGINEER'S REPORT FOR SAID DISTRICT, AND APPROVING THE METHOD AND LEVY OF ASSESSMENTS

WHEREAS, the City Council of the City of Porterville did on the 16th day of July 2024, adopt Resolution No. 48-2024 declaring its intention to order the annexation of Landscape and Lighting Maintenance District Number 56; and

WHEREAS, the public hearing on the formation of District Number 56 has been set on August 6, 2024, subject to the Landscape and Lighting Act of 1972; and

WHEREAS, a duly noticed public hearing has been held to receive objections to the formation of said District, or the levy of assessments.

NOW THEREFORE, **BE IT RESOLVED**, by the City Council of the City of Porterville as follows:

1. That the public interest, convenience and necessity require the annexation of Landscape and Lighting Maintenance District number 56, and that the District shall hereby be formed.

2. The Engineer's Reports and diagrams for District 56 are hereby approved, and the work as set forth therein is to be done.

3. That the method of assessment and the levy of assessments as indicated within said Engineer's Report is hereby approved.

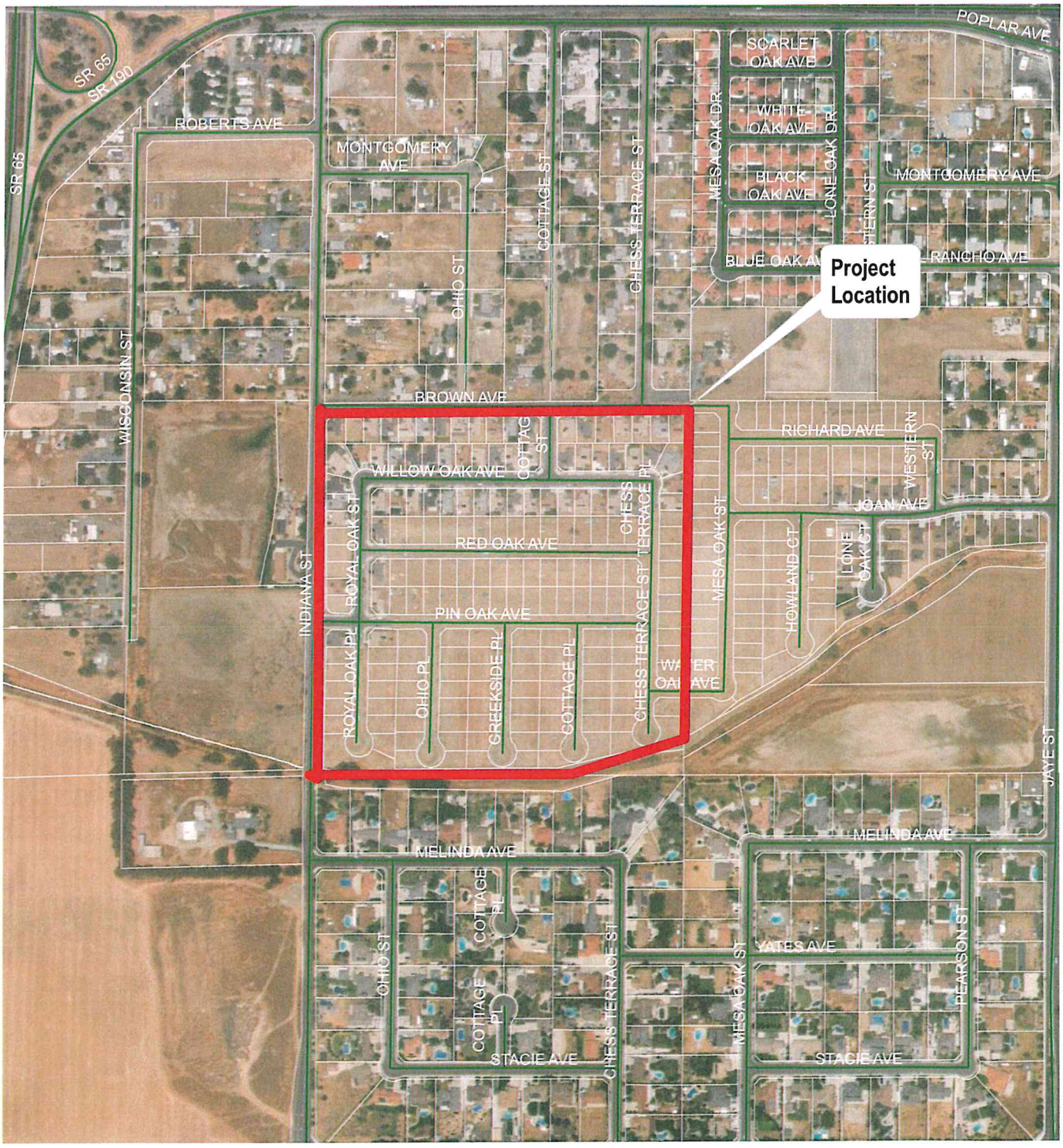
APPROVED AND ADOPTED THIS 6th day of August, 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

LOCATOR MAP
ROYAL OAKS SUBDIVISOIN



N

1 in = 500 ft

CITY OF PORTERVILLE · CALIFORNIA ·

Date Printed: 07/10/2024 by the Community Development Department

CITY OF PORTERVILLE
ENGINEER'S REPORT FOR LANSCAPING AND LIGHTING
MAINTENANCE DISTRICT NO. 56

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No. -2024. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include landscaping and lighting at Royal Oaks Subdivision **Phases One and Two** into the Landscape and Lighting Maintenance District No. 56. The City Council has determined that the areas to be landscaped and lighted will have an effect upon all parcels within the proposed boundaries of the District. The areas for street lights are included on all the streets within the subdivision. The landscaping and masonry wall includes a landscaped area along South Indiana Street and Brown Avenue, a neighborhood park, and the ¼ mile long trail along the Poplar Ditch. The landscape and wall maintenance includes: irrigation, mowing, pruning, cleaning, repairing, painting, vegetation and rodent control, and an amount set aside for replacement.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 58. Total landscaped area to be maintained is 2,492 lineal feet of masonry wall, and 43,965 square feet of landscaped area.

Maintenance activities within the Landscape and Lighting Maintenance District No. 56 are to include landscape and lighting maintenance.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Royal Oaks.

SECTION 5. Estimated Costs

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and the improvements have been installed.

Estimated Assessment 2024-2025

Maintenance	43,965 sq.ft, of landscaping area, 2,492 lf. of masonry wall		
Lighting	50 @ 5,800 lumens & 8 @ 16,000 lumens		
Project Management	191 lots		
Fund Balance	$ -		
Landscape	43,965 sq. ft. @ $0.150	= $	6,594.75
Graffiti Maintenance	43,965 sq. ft. @ $0.005	= $	219.82
Tree Maintenance	43,965 sq. ft. @ $0.004	= $	175.86
Postage/Printing	43,965 sq. ft. @ $0.006	= $	263.79
Utilities	43,965 sq. ft. @ $0.071	= $	3,121.52
Repair/Maintenance	43,965 sq. ft. @ $0.006	= $	263.79
	$0.242	= $	10,639.53

Maintenance	43,965 sq.ft. $0.242	=	$ 10,639.53
Administrative Fee	$10,639.53* x $0.10	=	$ 1,063.95
County Fee	191 lots @ $ 1.00 per lot	=	$ 191.00
Reserves 15% total cost of	Maintenance	=	$ 1,784.17
			$ 13,678.65
Estimated Cost Per Year	$ 13,678.65/191 = $ 71.61		

**Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2024/2025 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year's cost or the prior year's estimated cost adjusted according to the annualized Consumer Price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2024/2025 will refer back to the prior year's CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled "Landscape and Lighting Maintenance District No. 56 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 56. The establishment and maintenance of the improvements is a vital part of the development of Royal Oaks Subdivision. The City Council of Porterville has determined that to ensure satisfactory levels of maintenance for the landscape and lighting at Royal Oaks Subdivision, it should become Landscape and Lighting Maintenance District No. 56. The subdivision consists of 191 Lots. The Landscape area, which benefits the 191 lots, is located South Indiana Street and Brown Avenue, and along the trail of Poplar Ditch.

Landscape and Lighting Maintenance District No. 56 will consist of an area comprising approximately 1.369 acres. A total of 191 lots are proposed to be developed. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the development.
3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

Estimated 2024-2025 Assessment

$$\text{Assessment (A)} = \frac{\$\ 13{,}678.65}{191}.$$

$$A = \frac{\$\ 13{,}678.65}{191}. = \$\ 71.61 \text{ per lot for Royal Oaks}$$

Total Assessment for 2024-2025 = $ 13,678.65
Total developed lot count is 191 lots.

SECTION 8. Order of Events

1. City Council adopts Resolution Instituting Proceedings, appoints an Engineer of Work and Orders Engineer's Report.
2. City Council Adopts Resolution of Preliminary Approval of Engineer's Report.

3. City Council Adopts Resolution of Intention to Order the Annexation of Landscape and Lighting Maintenance District No. 56 and determines the district.
4. City Council adopts Resolution Ordering the Improvements and the Annexation of Landscape and Lighting Maintenance District No. 56.
5. Every year between April and August the Engineer of Work file a report with the City Council.
6. Every year between April and August, the City Council conducts a public hearing and approves, or modifies the individual assessments.

_____

Javier Sanchez, Jr.
Engineer of the Work

SUBJECT: Approval of Amended FY 2024-25 Transit Division Budget, Program Of Projects, and TDA Claim

SOURCE: Public Works

COMMENT: On June 18, 2024, the City Council adopted the fiscal year (FY) 2024-25 Transit Operating and Capital Improvement Program, commonly referred to as the Program of Projects. The Program of Projects is then forwarded to the Tulare County Association of Governments (TCAG) for concurrence and to be included in the statewide Federal Transportation Improvement Program (FTIP). Once the projects have been included in the FTIP, the City may submit Federal Transit Administration (FTA) 49 U.S.C. grant applications, which includes Section 5307, 5339, and other grant funds.

On July 16, 2024, the City Council adopted Resolution 40-2024 authorizing an allocation request for FY 2024-2025 Transportation Development Act Claim in the amounts of $1,022,347.91 in State Transit Assistance (STA) and $1,497,284 in Local Transportation Funds (LTF). These funds serve as local match funding for federal and state operating and capital financial assistance.

Since FY 2000, the City of Porterville has been the sole transit operator within the Porterville Urbanized Area (Porterville UZA), except for FY 2022-2023 and FY 2023-24, when the Tulare County Regional Transit Agency (TCRTA) operated on behalf of the City of Porterville. As of FY 2024-2025, the City of Porterville is the sole transit operator within the Porterville UZA.

As of the FY 2024, the Porterville UZA's FTA Section 5307 fund balance is approximately $13,694,960, of which, $7,198,000 was programmed by the City in its adopted FY 2024-25 budget, leaving an unallocated amount of $6,496,960.

It is staff's recommendation to amend the Transit Division's FY 2024-2025 Operating and Capital Improvement Project Budget to include a revised list of program of projects to better address the needs of the department and to allocate the majority of the funding. As presented, the total amount of operating and capital federal and state financial assistance would increase from $9,458,400 to $15,567,225. Local match funding for operating and capital projects would increase from $2,497,284 to $5,476,788. The summary of changes includes the following:

Local Transportation Funds (LTF): Increasing LTF funding from $1,497,284 to $4,454,440 as local match funding for the updated program of projects.

State Transit Assistance (STAF): Increasing STAF funding from $1,000,000 to $1,022,348 based on the updated estimates provided by TCAG.

Operating Assistance: Increasing operating assistance from $5,000,000 to $6,000,000 to match planned expenditures.

Preventative Maintenance: No Change.

Facility Improvements (Transit Center): Increase project funding from $75,000 to $142,000 and funding this project with State of Good Repair (SGR) rather than 5307.

Non-Revenue Vehicles: New project, which includes the purchase of support vehicles for staff and bus stop maintenance. The total project cost is $521,930 and is funded in part by the Department of Energy and the FTA.

Revenue Vehicles (Demand Response): New project, which includes the purchase of replacement revenue vehicles for demand response services. The total project cost is $430,000 and is funded by FTA Section 5339.

Revenue Vehicles (Fixed Route): Increasing project funding from $3,488,000 to $8,690,000 for the purchase of replacement revenue vehicles for fixed route services. Funded in part by FTA Section 5307 and 5339.

Charging Station Improvements: Formally scheduled for renewable energy (solar) improvement projects and now changed to charging station improvement projects. This project includes $585,000 from a previously approved FTA grant and the remaining $1,000,000 is allocated in the FY 2024-2025 budget. The total project increased from $1,000,000 to $1,585,000 due to remaining grant balances.

Bus Stop Improvements: Increases project funding from $200,000 to $1,000,000 for various bus stop amenities including bus stop shelters, signs, benches, trash receptacles, etc.

Fare Collection System Upgrades: New project, which includes the purchase of software and hardware equipment required to collect passenger revenues across fixed route and demand response services. The total project cost is $800,000 and is funded by FTA Section 5307.

Removed Projects: Removed projects include signal preemption ($250,000), designing a new bus maintenance facility ($1,500,000), multi-modal corridor improvements ($60,000), and bus maintenance facility improvements ($300,000).

RECOMMENDATION: That the City Council:
1. Rescind Resolution 40-2024 for the FY 2024 TDA claim;

2. Approve the draft resolution adopting the amended FY 2024-25 Transit Division Budget and Program of Projects; and
3. Approve the draft resolution for the FY 2024 TDA claim.

ATTACHMENTS:

1. Fiscal Year 2024-2025 Transit Budget
2. Fiscal Year 2024-2025 Amended Transit Budget
3. Draft Resolution - Amended Transit Budget
4. Draft Resolution - 2024 TDA
5. Resolution 40-2024
6. FTA Program of Projects

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE
ANNUAL BUDGET
2024– 2025

TRANSIT FUND

The Transit Fund was established in fiscal year 1982-83 to account for the income and expenses of the Demand Response and Fixed Route transit programs which are operated by a private contractor. Prior to 1982-83, this fund was combined with the Special Gas Tax Fund.

Revenue sources include Local Transportation Fund (LTF) derived from the ¼-cent general sales tax and the State Transit Assistance Fund (STAF) derived from sales tax on diesel fuel. Other revenue sources include fare box revenues and federal and state grants.

The capital expenditures proposed for fiscal year 2024-2025 include the following:

		Appropriation
Bus maintenance facility (Prospect St)		
Facility improvements	$	300,000
Renewable energy – solar improvements		1,000,000
Security improvements		325,000
Fleet Replacement		3,488,000
Multi-modal corridor rail ROW improvements		60,000
New bus maintenance facility		1,500,000
Transit Center improvements – exterior and lobby		75,000
Transit shelters		100,000
Transit shelter signage		100,000
Transit signal preemption		250,000
Total	$	7,198,000

CITY OF PORTERVILLE
ANNUAL BUDGET
2024-2025

TRANSIT FUND

	2022-2023 Actual	2023-2024 Original Estimate	2023-2024 Revised Estimate	2024-2025 Estimate
Available balance, beginning of year	$ (312,320)	$ -	$ 1,073,716	$ 1,020,248
Add:				
Revenues from:				
LTF	346,500	1,458,000	-	1,497,284
STAF	1,312,074	-	-	1,000,000
Sales tax, Measure R	14,167	-	-	170,000
TCRTA Reimbursements	1,076,783	-	1,272,876	-
Farebox	190,253	-	-	400,000
Grants	1,297,031	5,740,000	-	9,458,400
Other income	8,929	-	19,385	12,500
Reimbursements	4,474	-	-	-
Total	4,250,211	7,198,000	1,292,261	12,538,184
Less:				
Appropriations for:				
Capital outlay	1,781,499	7,198,000	-	7,198,000
Operations	1,082,676	-	1,345,729	6,360,432
Total	2,864,175	7,198,000	1,345,729	13,558,432
Available balance, end of year	$ 1,073,716	$ -	$ 1,020,248	$ -

CITY OF PORTERVILLE
ANNUAL BUDGET
2024 – 2025
AMENDED

TRANSIT FUND

The Transit Fund was established in fiscal year 1982-83 to account for the income and expenses of the Demand Response and Fixed Route transit programs which are operated by a private contractor. Prior to 1982-83, this fund was combined with the Special Gas Tax Fund.

Revenue sources include Local Transportation Fund (LTF) derived from the ¼ -cent general sales tax and the State Transit Assistance Fund (STAF) derived from sales tax on diesel fuel. Other revenue sources include fare box revenues and federal and state grants.

The capital expenditures proposed for fiscal year 2024-25 include the following:

	Appropriation
Preventative Maintenance	$1,500,000
Fuel System Upgrades	$300,000
Bus Garage Fencing	$260,000
Non-Revenue Vehicles – Support	$121,930
Non-Revenue Vehicles – Maintenance	$400,000
Revenue Fleet Replacement – Demand Response	$430,000
Revenue Fleet Replacement – Fixed Route	$8,690,000
Transit Center Improvements	$142,000
Charging Station Improvements	$1,585,000
Bus Stop Improvements	$1,000,000
Fare Collection System Upgrades	$800,000
Helping Obtain Prosperity for Everyone	$161,181
Short Range Transit Plan	$200,000
Total	$15,590,111

CITY OF PORTERVILLE
ANNUAL BUDGET
2024 – 2025
AMENDED

TRANSIT FUND

		2024-2025	
	2023-2024 Revised Estimate	Original Estimate	Revised Estimate
Available balance, beginning of year	$ 1,073,716	$ 1,020,248	$ 1,020,248
Add:			
Revenues from:			
LTF	-	1,497,284	4,454,440
STAF	-	1,000,000	1,022,348
Sales tax, Measure R	-	170,000	170,000
TCRTA Reimbursements	1,272,876	-	-
Farebox	-	400,000	400,000
Grants	-	9,458,400	15,567,225
Other income	19,385	12,500	12,500
Reimbursements	-	-	-
Total	$ 1,292,261	$ 12,538,184	$ 21,546,513
Less:			
Appropriations for:			
Capital Outlay	-	7,198,000	15,590,111
Operations	1,345,729	6,360,432	5,956,402
Total	$ 1,345,729	$ 13,558,432	$ 21,546,513
Available balance, end of year	$ 1,020,248	$ -	$ -

RESOLUTION NO. _____-2024

A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF PORTERVILLE ADOPTING THE AMENDED TRANSIT BUDGET AND PROGRAM OF PROJECTS FOR FISCAL YEAR 2024-2025

WHEREAS: The City Manager, under provisions of the City Charter of the City of Porterville, has presented to the City Council for its consideration, a proposed Amended Transit Operating and Capital Improvement Budget for the period beginning July 1, 2024 and ending June 30, 2025 (Attachment A); and

WHEREAS: The City Council after thorough review, has determined said amended budget, as modified and corrected, is in all respects suitable and adequate for the purposes of said budget and covers the necessary expenditures of the Transit Division of the City of Porterville for the 2024-2025 Fiscal Year.

NOW, THEREFORE, BE IT RESOLVED:

1. The City of Porterville Transit Budget for 2024-2025 fiscal year is adopted in the following amounts:

Operating Budget	$5,956,513
Capital Projects	$15,590,111
Total	$21,546,513

2. Staff will update Council on the condition of the budget and ongoing validity of assumptions utilized to create it during the months of November, February and May of the fiscal year, or at any time information becomes available that would alter the viability of this budget.

3. Increased service levels that require additional appropriations shall not be implemented without prior City Council approval.

PASSED, APPROVED AND ADOPTED this 6th day of August 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By:_____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

ATTACHMENT A
CITY OF PORTERVILLE
ANNUAL BUDGET
2024 – 2025
AMENDED

TRANSIT FUND

The Transit Fund was established in fiscal year 1982-83 to account for the income and expenses of the Demand Response and Fixed Route transit programs which are operated by a private contractor. Prior to 1982-83, this fund was combined with the Special Gas Tax Fund.

Revenue sources include Local Transportation Fund (LTF) derived from the ¼ -cent general sales tax and the State Transit Assistance Fund (STAF) derived from sales tax on diesel fuel. Other revenue sources include fare box revenues and federal and state grants.

The amended capital expenditures proposed for fiscal year 2024-25 include the following:

	Appropriation
Preventative Maintenance	$1,500,000
Fuel System Upgrades	$300,000
Bus Garage Fencing	$260,000
Non-Revenue Vehicles – Support	$121,930
Non-Revenue Vehicles – Maintenance	$400,000
Revenue Fleet Replacement – Demand Response	$430,000
Revenue Fleet Replacement – Fixed Route	$8,690,000
Transit Center Improvements	$142,000
Charging Station Improvements	$1,585,000
Bus Stop Improvements	$1,000,000
Fare Collection System Upgrades	$800,000
Helping Obtain Prosperity for Everyone	$161,181
Short Range Transit Plan	$200,000
Total	$15,590,111

CITY OF PORTERVILLE
ANNUAL BUDGET
2024 – 2025
AMENDED

TRANSIT FUND

	2023-2024 Revised Estimate	2024-2025 Original Estimate	2024-2025 Revised Estimate
Available balance, beginning of year	$ 1,073,716	$ 1,020,248	$ 1,020,248
Add:			
Revenues from:			
LTF	-	1,497,284	4,454,440
STAF	-	1,000,000	1,022,348
Sales tax, Measure R	-	170,000	170,000
TCRTA Reimbursements	1,272,876	-	-
Farebox	-	400,000	400,000
Grants	-	9,458,400	15,567,225
Other income	19,385	12,500	12,500
Reimbursements	-	-	-
Total	$ 1,292,261	$ 12,538,184	$ 21,546,513
Less:			
Appropriations for:			
Capital Outlay	-	7,198,000	15,590,111
Operations	1,345,729	6,360,432	5,956,402
Total	$ 1,345,729	$ 13,558,432	$ 21,546,513
Available balance, end of year	$ 1,020,248	$ -	$ -

RESOLUTION NO. _____-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE FOR FISCAL YEAR 2024-25 TRANSPORTATION DEVELOPMENT ACT CLAIM

WHEREAS, pursuant to Government Code Section 66500 et seq., the Tulare County Association of Governments ("TCAG") is the regional transportation planning agency for Tulare County; and

WHEREAS, the Mills-Alquist-Deddeh Act ("Transportation Development Act" or "TDA"), Public Utilities Code Section 99200 et seq., makes certain retail sales tax revenues available to eligible claimants for public transportation projects and purposes; and

WHEREAS, TCAG is responsible for the allocation of TDA funds to eligible claimants within the Tulare County region; and

WHEREAS, the City of Porterville is an eligible claimant of TDA funds; and

WHEREAS, the City of Porterville's adopted fiscal year 2024-25 transit budget lists the amounts of and purposes for the fiscal year 2024-25 TDA allocations requested by the City of Porterville, and is from time-to-time revised; and

WHEREAS, Resolution 40-2024 approved a TDA allocation request of based on the adopted transit budget; and

WEREAS, the City of Porterville rescinds Resolution 40-2024 and desires to amend its transit budget and the amounts of and purposes for the fiscal year 2024-25 TDA allocation; and

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve an allocation request of fiscal year 2024-25 TDA funds in the amounts of $1,022,347.91 in State Transit Assistance and $4,454,440 in Local Transportation funds, subject to the TCAG 2024 TDA Claims Manual.

PASSED, APPROVED AND ADOPTED this 6th day of August 2024.

_____
Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By:_____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

RESOLUTION NO. 40 -2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE FOR FISCAL YEAR 2024-25 TRANSPORTATION DEVELOPMENT ACT CLAIM

WHEREAS, pursuant to Government Code Section 66500 et seq., the Tulare County Association of Governments ("TCAG") is the regional transportation planning agency for Tulare County; and

WHEREAS, the Mills-Alquist-Deddeh Act ("Transportation Development Act" or "TDA"), Public Utilities Code Section 99200 et seq., makes certain retail sales tax revenues available to eligible claimants for public transportation projects and purposes; and

WHEREAS, TCAG is responsible for the allocation of TDA funds to eligible claimants within the Tulare County region; and

WHEREAS, the City of Porterville is an eligible claimant of TDA funds; and

WHEREAS, the City of Porterville's fiscal year 2024-25 transit budget lists the amounts of and purposes for the fiscal year 2024-25 TDA allocations requested by the City of Porterville, and is from time-to-time revised.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve an allocation request of fiscal year 2024-25 TDA funds in the amounts of $1,022,347.91 in State Transit Assistance and $1,497,284 in Local Transportation funds allocated under this resolution, subject to the TCAG 2024 TDA Claims Manual.

PASSED, APPROVED AND ADOPTED this 16th day of July 2024.

Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, PATRICE HILDRETH, 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 16th day of July, 2024.

Said resolution was duly passed, approved, and adopted by the following vote:

Council:	FLORES	CARRILLO	WEYHRAUCH	BELTRAN	MEISTER
AYES:	X		X	X	X
NOES:					
ABSTAIN:					
ABSENT:		X			

PATRICE HILDRETH, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

2024-2025
CITY OF PORTERVILLE
FTA FUNDED PROGRAM OF PROJECTS

				Amounts in $1,000's					
	Agency	**Project Title**	**Project Description**	**Fund Source**	**Funds Programmed "Prior"**	**FY 22/23**	**FY 23/24**	**FY 24/25**	**FY 25/26**
(CTIPS ID: 215-0000-0727)	Porterville	City of Porterville Operating Assistance	Transit operating assistance for Porterville Urbanized Area using FTA 5307	FTA 5307	$0	$0	$0	$3,000	$3,000
				LTF	$0	$0	$0	$3,000	$3,000
(CTIPS ID: 215-0000-0727)	Porterville	City of Porterville Preventative Maintenance	Preventative Maintenance activities for Porterville Urbanized Area using FTA 5307	FTA 5307	$0	$0	$0	$1,200	$1,200
				LTF	$0	$0	$0	$300	$300
(CTIPS ID: 215-0000-0796)	Porterville	Fuel System Upgrades	Purchase fuel system software and equipment for Porterville City Transit Bus Yard	FTA 5307	$0	$0	$0	$240	$0
				LTF	$0	$0	$0	$60	$0
(CTIPS ID: 215-0000-0796)	Porterville	Fencing and security hardware purchase	Replace and upgrade existing security fencing at bus yard	FTA 5307	$0	$0	$0	$208	$0
				LTF	$0	$0	$0	$52	$0
New	Porterville	Non-Revenue Support Vehicles	Purchase Non-Revenue Support Vehicles	FTA 5307	$0	$0	$0	$320	$0
				LTF	$0	$0	$0	$80	$0
(CTIPS ID: 215-0000-0741)	Porterville	Replacement Revenue Vehicles	Purchase Replacement Revenue Vehicles for Demand Response	FTA 5339	$0	$0	$0	$344	$0
				LTF	$0	$0	$0	$86	$0
New	Porterville	Replacement Revenue Vehicles	Purchase Replacement Revenue Vehicles For Fixed Route	FTA 5307	$0	$0	$0	$6,400	$0
				LTF	$0	$0	$0	$1,600	$0
(CTIPS ID: 215-0000-0797)	Porterville	Porterville Renewable Energy Infrastructure	Purchase and installation of replacement charging station infrastructure	FTA 5307	$0	$0	$0	$800	$0
				LTF	$0	$0	$0	$200	$0
(CTIPS ID: 215-0000-0796)	Porterville	Bus Stop Improvements	Purchase and install various bus stop amenities	FTA 5307	$0	$0	$0	$800	$0
				LTF	$0	$0	$0	$200	$0
New	Porterville	Fare Collection System Improvements	Purchase and install various fare collection system software and equipment	FTA 5307	$0	$0	$0	$640	$0
				LTF	$0	$0	$0	$160	$0