

MEETING AGENDA

The City Council/Successor Agency of the City of Firebaugh
Vol. No.18/12-03

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622
Date/Time: December 03, 2018/6:00 p.m.

CALL TO ORDER

ROLL CALL

Mayor Felipe Pérez
Mayor Pro Tem Marcia Sablan
Council Member Elsa Lopez
Council Member Freddy Valdez
Council Member Brady Jenkins

In compliance with the Americans with Disabilities Act, if you need special assistance to access the Andrew Firebaugh Community Center to participate at this meeting, please contact the Deputy City Clerk at (559) 659-2043. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Andrew Firebaugh Community Center.

Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the Deputy City Clerk's office, during normal business hours.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

CONSENT CALENDAR

Items listed on the calendar are considered routine and are acted upon by one motion unless any Council member requests separate action. Typical items include minutes, claims, adoption of ordinances previously introduced and discussed, execution of agreements and other similar items.

1. APPROVAL OF MINUTES – The City Council regular meeting on November 5, 2018.

PUBLIC HEARING:
NONE

OLD BUSINESS:

2. REVIEW AND CONSIDER A WATER / WASTEWATER RATE STUDY COMPLETED BY TUCKFIELD & ASSOCIATES.

Recommended Action: Council receive public comment & approve, give direction to begin the Proposition 218.

NEW BUSINESS

3. RESOLUTION NO. 18-57 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING AND AUTHORIZING EXECUTION OF THE PURCHASE AND SALE AGREEMENT IN BEHALF OF THE CITY. (APN's 008-131-08T and 008-131-09T, 1325 O Street, Firebaugh, CA 93622).

Recommended Action: Council receives public comment & approve.

4. **RESOLUTION NO. 18-58 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING AND AUTHORIZING EXECUTION OF THE LEASE AGREEMENT IN BEHALF OF THE CITY. (APN's 008-131-08T and 008-131-09T, 1325 O Street, Firebaugh, CA 93622)**

Recommended Action: - Council receive public comment & approve.

5. **RESOLUTION NO. 18-59 - RESOLUTION OF THE CITY OF FIREBAUGH (CITY) AUTHORIZING THE CITY MANAGER TO SIGN, SUBMIT AND EXECUTE A FINANCIAL ASSISTANCE APPLICATION FOR A GRANT AGREEMENT FROM THE STATE WATER RESOURCES CONTROL BOARD (SWRCB) FOR THE FEASIBILITY, PLANNING, ENVIRONMENTAL, AND A PRELIMINARY DESIGN OF THE CITY OF FIREBAUGH RECYCLED WATER PROJECT (THE "PROJECT") AND EXECUTE A FINANCIAL ASSISTANCE FUNDING AGREEMENT AND ANY AMENDMENTS THERETO FOR THE PROJECT THAT BENEFITS THE CITY'S WASTEWATER CONTROL PLANT AND COMMUNITY WATER SUPPLY; AND AUTHORIZING THE CITY MANAGER TO APPROVE REQUESTS FOR PARTIAL PAYMENT (CLAIMS FOR REIMBURSEMENT), SIGN BUDGET AND EXPENDITURE SUMMARIES, AND SIGN ANY DOCUMENTS PERTAINING TO PROJECT COMPLETION.**

Recommended Action: - Council receive public comment & approve.

6. **RESOLUTION NO. 18-60 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING A MITIGATED NEGATIVE DECLARATION FOR THE HUD TANK PROJECT.**

Recommended Action: - Council receive public comment & approve.

STAFF REPORTS

PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY

CLOSED SESSION:

None

ANNOUNCEMENT AFTER CLOSED SESSION

ADJOURNMENT

Certification of posting the Agenda

I declare under penalty of perjury that I am employed by the City of Firebaugh and that I posted this agenda on the bulletin boards at City Hall, December 03, 2018 at 5:00 p.m. by Pio Martin, Finance Director.

MEETING MINUTES

The City Council/Successor Agency of the City of Firebaugh

Vol. No.18/11-19

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622

Date/Time: November 19, 2018/6:00 p.m.

CALL TO ORDER Meeting called to order by Mayor Perez at 6:00p.m.

ROLL CALL Mayor Felipe Pérez
Mayor Pro Tem Marcia Sablan
Council Member Elsa Lopez
Council Member Brady Jenkins

ABSENT Council Member Freddy Valdez

OTHERS: City Attorney, Meggin Boranian; City Manager/Acting Public Works Director, Ben Gallegos; Finance Director, Pio Martin; Police Chief, Salvador Raygoza; Tuckfield & Associates, Clayton Tuckfield and Albert Puche;

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Marcia Sablan led Pledge of Allegiance.

PUBLIC COMMENT: NONE

CONSENT CALENDAR:

1. APPROVAL OF MINUTES – The City Council regular meeting on November 5, 2018.

Motion to accept minutes by Council Member Jenkins, second by Council Member Lopez; motion by unanimous 4-0 vote.

2. WARRANT REGISTER – Period starting October 1 and ending on October 31, 2018.

October 2018	General Warrants	#37305 – 37454 - \$814,252.42
	Payroll Warrants	#70133 – 70234 - \$232,087.40

Motion to accept warrant register by Council Member Jenkins, second by Council Member Lopez; motion by unanimous 4-0 vote.

PUBLIC HEARING:
NONE

NEW BUSINESS

3. REVIEW AND CONSIDER A WATER/WASTEWATER RATE STUDY COMPLETED BY TUCKFIELD & ASSOCIATES

Recommended Action: Discussed new water and sewer rates; Motion to continue until next Council meeting on December 3, 2018 by Council Member Jenkins, second by Council Member Sablan; motion by unanimous 4-0 vote.

4. RESOLUTION NO.. 18-56 - A RESOLUTION OF THE CITY COUNCIL OF FIREBAUGH APPROVING AN APPLICATION FOR AUTHORIZATION TO ACCESS STATE AND FEDERAL

LEVEL SUMMARY CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT, VOLUNTEERS, AND CONTRACTORS, LICENSING OR CERTIFICATION PURPOSES.

Recommended Action: Motion to approve Resolution No. 18-56 by Council Member Lopez, second by Council Member Jenkins; motion by unanimous 4-0 vote.

STAFF REPORTS

Police Chief Salvador Raygoza- Police officers have been busy with accident reports/collisions in the county; Grant for DUI is over; OT for officers for DUI enforcement during the holidays. A few officers and dispatch attended active shooting training. Chief explained new First Net cellphone service for public safety and government employees.

Finance Director, Pio Martin- Auditors still working on audit, they have not been in office for a couple weeks now. Regarding new hire, interviewed 10 candidates. Invited three people each from City of Kerman, Mendota and Livingston. They chose their top 5 candidates who will continue with second interview with Ben, Isabel and Pio.

City Manager, Benjamin Gallegos- Short on staff at city hall and thanked staff for helping out. Health department passed new Senior Center kitchen. Pio has taken over some of Rita's duties for now. Purchase of Whitehurst property completed. Highway 33 has been repaved by Caltrans. Ben has been receiving complaints regarding no mail delivery on "Q" Street and Thatcher, but it is out of city control. Ben has reached out to Post Master and she has not returned his call. Meggin volunteered to contact someone from post office to have issue resolved. Water board sent out letter to residents at Las Deltas regarding no board at the moment at Las Deltas Water District. Hopefully a company will want to continue the water district board.

City Attorney, Meggin Boranian- Transfer of Whitehurst closing went smoothly. Met with Ben/Sal regarding final lease for Court House. Meggin has been trying to get meeting going with Bureau of Cannabis control. Meggin was directed to hold off on meeting

PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY: NONE

CLOSED SESSION

Pending Litigation: One (1) Case (Cal. Government Code Sec. 54956.9(a))"

Public Employee Employment: City Attorney (Cal Government Code Section 54957)

Motion to enter closed session by Council Member Jenkins, second by Council Member Sablan; motion by unanimous 4-0 vote.

Time Enter to Close Session at 7:35p.m.

Time Enter to Open Session at 8:19p.m.

Motion to enter to open session by Council Member Jenkins, second by Council Member Sablan; motion by unanimous 4-0 vote.

ANNOUNCEMENT AFTER CLOSED SESSION: Council announced Lozano Smith, LLP Attorneys at Law as new contract as of January 2019. Council directed City Manager Ben to notify Meggin Boranian, Attorney at Law.

ADJOURNMENT

Motion to Adjourn by Council Member Sablan, second by Council Member Jenkins; motion by unanimous 4-0 vote.

Time of adjournment: 8:20p.m.

Certification of posting the Agenda

I declare under penalty of perjury that I am employed by the City of Firebaugh and that I posted this agenda on the bulletin boards at City Hall, November 16, 2018 at 5:00 p.m. by Pio Martin, Finance Director.



Report on

Water and Wastewater Rate Study

For:

City of Firebaugh

1133 "P" Street

Firebaugh, CA 93622

(559) 659-2043

Submitted By:

Tuckfield & Associates

2549 Eastbluff Dr, #450B

Newport Beach, CA 92660

(949) 760-9454

www.tuckfieldassociates.com

DRAFT

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Tuckfield & Associates

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Email ctuckfield@tuckfieldassociates.com

November 15, 2018

Mr. Ben Gallegos
City Manager
City of Firebaugh
1133 "P" Street
Firebaugh, CA 93622

Dear Mr. Gallegos:

I am pleased to present this Water and Wastewater Rate Study (Study) report for the City of Firebaugh (City). The water and wastewater rates presented in this report have been developed based on cost of service principles and industry methods that result in fair and equitable rates for the users of the water and wastewater systems in accordance with Proposition 218.

This study included a review and analysis of the water and wastewater enterprise revenue and revenue requirements, number of customers, water sales volumes, accounting and billing information, and rate structures. The major objectives of the study include the following.

- Generate positive levels of income for the study period
- Maintain operating and capital reserves at or greater than target levels
- Maintain debt service coverage ratios at or greater than the minimum required
- Meet annual capital replacement spending from annual revenue and reserves

This report presents the findings and recommendations for the water and wastewater enterprise financial plans and rates developed for the City. Tables and figures throughout the report are provided to demonstrate the calculation of water and wastewater rates and charges.

I have enjoyed working with City staff during the performance of this study. If there are any questions, please contact me at (949) 760-9454.

Very Truly Yours,

TUCKFIELD & ASSOCIATES



G. Clayton Tuckfield
President/Project Consultant

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Water and Wastewater Rate Study

CITY OF FIREBAUGH

Table of Contents

	<u>Page</u>
Executive Summary	1
Water Financial Plan.....	1
Proposed Water Rates	1
Current Water Rates	1
Proposition 218	1
Proposed Water Rate Structure and Rates.....	2
Water Customer Water Bill Impacts	3
Water Rate Survey.....	4
Wastewater Financial Plan	4
Proposed Wastewater Rate Structure and Rates	4
Wastewater Customer Water Bill Impacts.....	5
Wastewater Rate Survey	5
Introduction.....	7
Background	7
Objectives	7
Scope of Study.....	8
Assumptions.....	8
Assumptions and Planning Factors	8
Water System Reserve Policy	9
Water System Beginning Balances and Reserve Targets.....	9
Water Financial Planning.....	10
Current Water Fixed and Variable Charges	10
Water User Classifications.....	11
Number of Customers.....	11
Number of Water Meters.....	11
Water Sales Volumes	12
Water Financial Plan.....	13
Revenues	13
Revenue Requirements	14
Operation and Maintenance Expense	14

Water and Wastewater Rate Study

CITY OF FIREBAUGH

Table of Contents (continued)

	<u>Page</u>
Capital Replacement Transfer	14
Existing Debt Service	15
Water Capital Improvement Program	15
Water Financial Plan	15
Proposed Revenue Adjustments	15
Water Cost of Service	16
Industry Methodology.....	16
Costs of Service to be Allocated	17
Water Rate Design.....	18
Proposed Rate Structure	18
Proposed Fixed Charges	18
Industrial Fixed Charges	19
Private Fire Protection Fixed Charges	19
Proposed Variable Charges	20
Water Supply Costs.....	20
Delivery Costs	20
Peaking Costs	20
Proposed Single-family Residential Variable Charges	20
Proposed Non-Residential and Landscape Variable Charges.....	22
Proposed Industrial Variable Charges	22
Proposed Water Rates	23
Water Bill Impacts	24
Water Rate Survey.....	24
Wastewater Financial Planning.....	26
Current Wastewater Fixed and Variable Charges	26
Wastewater User Classifications	27
Number of Customers	27
Wastewater Financial Plan	28
Revenues	28
Revenue Requirements	29
Operation and Maintenance Expense	29

Water and Wastewater Rate Study

CITY OF FIREBAUGH

Table of Contents (continued)

	<u>Page</u>
Annual Capital Replacement Transfer	29
Existing Debt Service	29
Wastewater Capital Improvement Program	29
Wastewater Financial Plan	30
Proposed Revenue Adjustments	30
Wastewater Cost of Service	31
Industry Methodology.....	31
Wastewater Rate Design.....	31
Proposed Wastewater Rates.....	33
Wastewater Bill Impacts	33
Wastewater Rate Survey.....	33

List of Tables

Table ES-1	Proposed Water Fixed Charges.....	2
Table ES-2	Proposed Water Variable Charges	3
Table ES-3	Comparison of Current Single-family Residential Monthly Bill with Proposed Bill Using April 2019 Water Rate Structure and Rates	4
Table ES-4	Proposed Wastewater Fixed and Variable Charges	5
Table ES-5	Proposed Septage Disposal Charges	5
Table 1	Assumptions and Planning Factors.....	8
Table 2	June 30, 2018 Estimated Beginning Cash Balances and Reserve Targets	9
Table 3	Current Monthly Water Fixed Charges	10
Table 4	Current Water Variable Charges	11
Table 5	Historical and Projected Water Customers by Classification.....	12
Table 6	Historical and Projected Number of Water Meters	12
Table 7	Historical and Projected Water Consumption	13
Table 8	Projected Rate-based Water Revenue Using Existing Rates	13
Table 9	Projected Water Miscellaneous Revenue	14
Table 10	Historical and Projected Water Operation and Maintenance Expense	15
Table 11	Water Financial Plan	16
Table 12	Allocation of Water Revenue Requirements to Cost Components	17

Water and Wastewater Rate Study

CITY OF FIREBAUGH

Table of Contents (continued)

	<u>Page</u>
Table 13 Design of Fixed Charges.....	18
Table 14 Design of Fixed Charges by Meter Size	19
Table 15 Design of Industrial Fixed Charges	19
Table 16 Design of Private Fire Protection Charges.....	20
Table 17 Design of Private Fire Protection Charges by Hydrant Size.....	20
Table 18 Design of Single-family Residential Tiered Rate Structure.....	21
Table 19 Design of Non-Residential and Landscape Uniform Volume Charge	22
Table 20 Design of Industrial Volume Charge	22
Table 21 Proposed Water Fixed Charges.....	23
Table 22 Proposed Water Variable Charges	24
Table 23 Comparison of Current Single-family Residential Monthly Bill with Proposed Bill Using April 2019 Water Rate Structure and Rates.....	25
Table 24 Current Wastewater Fixed and Variable Charges	26
Table 25 Historical and Projected Wastewater Customers by Classification	27
Table 26 Projected Rate-based Wastewater Revenue Using Existing Rates.....	28
Table 27 Projected Miscellaneous Revenue.....	28
Table 28 Projected Wastewater Operation and Maintenance Expense.....	29
Table 29 Water Financial Plan	30
Table 30 Allocation of Wastewater Revenue Requirements to Cost Component.....	31
Table 31 Design of Wastewater Rates and Charges.....	32
Table 32 Proposed Wastewater Fixed Charges	33
Table 33 Proposed Septage Disposal Charges.....	33

List of Charts

Chart ES-1 Survey of Single-family Residential Monthly Water Bills Using 11 kgal	4
Chart ES-2 Survey of Single-family Residential Monthly Wastewater Bills Using 11 kgal.....	6
Chart 1 Survey of Single-family Residential Monthly Water Bills Using 11 kgal	25
Chart 2 Survey of Single-family Residential Monthly Wastewater Bills Using 11 kgal.....	34

List of Appendices

Appendix A Water Technical Appendix	35
Appendix B Wastewater Technical Appendix	35

Executive Summary

The City of Firebaugh (City) engaged Tuckfield & Associates in to conduct a Water and Wastewater Rate Study (Study) for its water and wastewater enterprises. This Study includes development of pro forma statements of revenues and revenue requirements, analyses to determine the unit costs of providing service, and design of new water and wastewater rates and charges for implementation.

Water Financial Plan

The revenue and revenue requirements of the water enterprise were identified and projected to create a forward-looking financial plan of the water enterprise. Annual costs include operation and maintenance expense (O&M), annual replacement capital transfer, and debt service.

O&M expenses were projected using the City's FY 2018-19 Budget expenses for the first year and then by applying inflation factors to budget year expenses. An annual transfer for replacement capital is included in the financial plan that is estimated to equal 50 percent of annual depreciation expense. Debt service payments total the sum of principal and interest related to the 2013 and 2016 Revenue Refunding Bonds.

The City has prepared a five-year capital improvement program (CIP) spending plan that lists projects for FY 2018-19 through FY 2022-23. Projects are non-specific and reflect expected annual replacements. Over this period the City projects that it would expend approximately \$200,000 annually for water replacement.

An analysis of the financial plan was performed to determine the sufficiency of revenue, using the City's current water rates, to meet the projected revenue requirements (costs) of the water enterprise. The analysis indicated that the current level of revenue being received should be increased to meet future obligations during the Study period. Revenue increases of 3.0 percent annually are required beginning April 1, 2019 and continues each January 1 through 2023. The water financial plan is presented in Table 10.

Proposed Water Rate Structure and Rates

Current Water Rates

The current water rates for the City's residential, commercial, and public authority customers consist of monthly fixed charges and variable charges. Current water rates for Industrial customers consist of monthly fixed charges by meter size in addition to variable charges. Variable charges for Single-family residential (SFR) customers include a four-tier conservation rate structure while variable charges for Multifamily (MFR, including multiple dwelling units and mobile homes), Commercial, Public Authority, and Las Deltas customers include a two-tier rate structure.

Proposition 218

Recent findings from the San Juan Capistrano court decision regarding the legality of water rate structures suggests that the City's current water rate structure no longer meets the tests of Proposition 218. The findings of the decision indicate that rates not only need to be proportional to cost of service, but they need to be

proportional to cost of service within rate tiers of such rate structures as well. Rate tiers have been revised in this Study to address this decision.

Proposed Water Rate Structure and Rates

The proposed water rate structure and rates modify the current fixed and variable charges. The current fixed charge structure is modified to charge all customers based on their meter size. The proposed fixed charges include the costs to operate and maintain the meters and the billing and collection costs to serve customers. For Industrial customers, the fixed charge includes a monthly minimum volume in 1,000 gallons as stated in Table ES-1 below. The volume is included in the fixed charge to recognize the seasonal nature of this type of water service and stabilize the revenue stream. The proposed fixed charges generate about 25 percent of the revenue received from water rates. The current fixed charges produce about 40 percent of the water rate revenue received. Table ES-1 presents the proposed fixed charges for the Study.

Table ES-1
Proposed Water Fixed Charges

Classification	Current Rate	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
Single-family Residential	\$25.48	n/a	n/a	n/a	n/a	n/a
MFR <= 3 DU	\$17.40	n/a	n/a	n/a	n/a	n/a
MFR => 4 DU & MH	\$24.11	n/a	n/a	n/a	n/a	n/a
Motels & Cabins	\$8.06	n/a	n/a	n/a	n/a	n/a
Public Authority/Schools	\$64.70	n/a	n/a	n/a	n/a	n/a
Commercial	\$42.08	n/a	n/a	n/a	n/a	n/a
Single Family Non-Metered (R1)	\$22.93	n/a	n/a	n/a	n/a	n/a
Public Housing Authority Non-Metered (R2)	\$35.84	\$34.69	\$35.73	\$36.80	\$37.90	\$39.04
MFR => 4 DU & MH Non-Metered (R3)	\$33.91	n/a	n/a	n/a	n/a	n/a
Motels & Cabins Non-Metered (R4)	\$11.34	n/a	n/a	n/a	n/a	n/a
All Customers Except Industrial		Fixed Charge (\$ per month)				
<u>Meter Size</u>						
1 inch and smaller	n/a	\$15.07	\$15.52	\$15.99	\$16.47	\$16.96
1-1/2 inch	n/a	\$22.92	\$23.61	\$24.32	\$25.05	\$25.80
2 inch	n/a	\$34.48	\$35.51	\$36.58	\$37.68	\$38.81
3 inch	n/a	\$83.21	\$85.71	\$88.28	\$90.93	\$93.66
4 inch	n/a	\$116.86	\$120.37	\$123.98	\$127.70	\$131.53
6 inch	n/a	\$231.55	\$238.50	\$245.66	\$253.03	\$260.62
Industrial						
	<u>Included Volume</u>					
2 inch	75	\$205.23	\$225.50	\$232.27	\$239.24	\$246.42
3 inch	100	\$273.64	\$300.67	\$309.69	\$318.98	\$328.55
4 inch	175	\$478.88	\$526.18	\$541.96	\$558.22	\$574.97
6 inch	325	\$889.35	\$977.19	\$1,006.50	\$1,036.70	\$1,067.80
14 inch	500	\$1,368.22	\$1,503.36	\$1,548.46	\$1,594.91	\$1,642.76

The current variable rate structures are modified to eliminate the tiered rate structure except for single-family and Industrial. Single-family is modified to reduce the tier break points to reflect indoor water use in the first tier and outdoor water use in tiers 2 through 4. Industrial customers have essentially a two-tier variable rate, charging only consumption that is above the amount included with fixed charge. Las Deltas customers have a contract with the City and their two-tier rate structure remains in place. All other customers have a uniform volume rate applicable individually to each customer class. In addition, a new customer classification is created that is identified as the Landscape classification and is further discussed in the Proposed Variable Charges section under Water Rate Design of this Report. Table ES-2 presents the proposed variable charges for implementation.

Table ES-2
Proposed Water Variable Charges

Classification	Current Rate	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
Variable Charge (\$ per 1,000 gal)						
Single-family Residential						
Tier 1 - 0 to 12 units	\$0.00					
Tier 2 - 13 to 22 units	\$2.51					
Tier 3 - 23 to 32 units	\$2.74					
Tier 4 - 33 and Over	\$3.01					
Tier 1 - 0 to 7 units		\$1.47	\$1.52	\$1.57	\$1.62	\$1.67
Tier 2 - 7 to 15 units		\$1.84	\$1.89	\$1.95	\$2.01	\$2.07
Tier 3 - 15 and Over		\$2.46	\$2.53	\$2.61	\$2.69	\$2.77
Multifamily Residential						
Tier 1 - 0 to 12 units	\$0.00	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Tier 2 - 13 and Over	\$2.51	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Commercial						
Tier 1 - 0 to 25 units	\$0.00	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Tier 2 - 26 and Over	\$2.74	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Industrial (Charge Over Included Volume)	\$2.52	\$2.96	\$3.05	\$3.14	\$3.23	\$3.33
Public Authority/Schools						
Tier 1 - 0 to 25 units	\$0.00	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Tier 2 - 26 and Over	\$2.74	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Landscape	n/a	\$2.27	\$2.33	\$2.40	\$2.47	\$2.54
Las Deltas [1]						
Tier 1 - 0 to 5000 units	\$2.74	\$2.82	\$2.90	\$2.99	\$3.08	\$3.17
Tier 2 - 5001 and Over	\$3.01	\$3.10	\$3.19	\$3.29	\$3.39	\$3.49

[1] Contract rate.

Water Customer Bill Impacts

Table ES-3 presents the impacts to Firebaugh single-family residential bills from the proposed water rate structure assuming an effective date of April 1, 2019. The table shows that the water bill of an average single-family residential customer using 11 thousand gallons (kgal) monthly will increase from \$25.48 to \$32.72, an increase of \$7.24, or 28.4 percent. However, customers that consume less than the average experience a significant reduction in their monthly bill as shown in table. This is due to the rate structure change shown above where previously there was no charge for consumption in the first tier.

Table ES-3
Comparison of Current Single-family Residential Monthly Bill with
Proposed Bill Using April 2019 Water Rate Structure and Rates

Description	Use (Kgal)	Current Bill			Proposed Bill			Change	Percent Change
		Service Charge	Volume Charge	Current Bill	Service Charge	Volume Charge	Proposed Bill		
	0	\$25.48	\$0.00	\$25.48	\$15.07	\$0.00	\$15.07	(\$10.41)	-40.9%
Very Low	3	\$25.48	\$0.00	\$25.48	\$15.07	\$4.41	\$19.48	(\$6.00)	-23.5%
Low	5	\$25.48	\$0.00	\$25.48	\$15.07	\$7.35	\$22.42	(\$3.06)	-12.0%
Median	8	\$25.48	\$0.00	\$25.48	\$15.07	\$12.13	\$27.20	\$1.72	6.8%
Average	11	\$25.48	\$0.00	\$25.48	\$15.07	\$17.65	\$32.72	\$7.24	28.4%
High	20	\$25.48	\$20.08	\$45.56	\$15.07	\$34.46	\$49.53	\$3.97	8.7%
Very High	30	\$25.48	\$47.02	\$72.50	\$15.07	\$53.36	\$68.43	(\$4.07)	-5.6%
	50	\$25.48	\$106.68	\$132.16	\$15.07	\$91.16	\$106.23	(\$25.93)	-19.6%

Water Rate Survey

Chart ES-1 has been prepared to compare the City's single-family residential water bill with water bills of other communities at the same consumption. The chart indicates that with the April 2019 water rate structure change, a Firebaugh single-family residential customer with a monthly consumption of 11 thousand gallons (kgal) will experience a bill that is in the upper mid-range of the communities listed.

Chart ES-1
Survey of Single-family Residential Monthly Water Bills Using 11 kgal
For Rates in Effect November 2018



Note: Above table uses water rates in effect November 2018. The Firebaugh April 2019 bill is based on the rate structure and rates in Tables ES-1 and Table ES-2.

Wastewater Financial Plan

The revenue and revenue requirements of the System were identified and projected to create a forward-looking financial plan of the wastewater enterprise. Annual costs of the System include operation and maintenance expense (O&M), annual replacement capital transfer, and debt service.

Future O&M expenses include the City's FY 2018-19 Budget expenses for the first year, and projected expenses for future years that include application of inflation factors to budget year expenses. An annual transfer for replacement capital is included in the financial plan that is estimated to equal 50 percent of annual depreciation. Debt service payments total the sum of principal and interest related to the 2016A Sewer Revenue Refunding Bonds.

The City has prepared a five-year capital improvement program (CIP) spending plan that lists projects for FY 2018-19 through FY 2022-23. Projects are non-specific and include annual sewer system replacements. Over this period the City projects that it would expend approximately \$80,000 annually for replacements.

An analysis of the financial plan was performed to determine the sufficiency of revenue, using the City's current wastewater rates, to meet the projected revenue requirements (costs) of the wastewater enterprise. The analysis indicated that the current level of revenue being received should be increased to meet future obligations during the Study period. Revenue increases of 3.7 percent annually are required beginning April 1, 2019 and continues each January 1 through 2023. The wastewater financial plan is presented in Table 29.

Proposed Wastewater Rate Structure and Rates

The proposed wastewater rate structure modifies the current fixed charges. The fixed charges for all customers remain, however Day Care and Schools customers will be charged by the Average Daily Attendance (ADA). Table ES-4 and Table ES-5 presents the proposed wastewater fixed charges for the Study.

Table ES-4
Proposed Wastewater Fixed Charges

Classification	Classification	Current Rate	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
Fixed Charge (\$ per month)							
SF & Mobile Homes		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
MF <= 650 SF		\$40.12	\$41.74	\$43.29	\$44.90	\$46.57	\$48.30
MF > 650 SF		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
Cabins/Cottages		\$33.48	\$35.96	\$37.29	\$38.67	\$40.11	\$41.60
Travel Trailers		\$33.48	\$35.96	\$37.29	\$38.67	\$40.11	\$41.60
Restaurants Up to 25		\$49.95	\$59.82	\$62.04	\$64.34	\$66.73	\$69.20
Restaurants 26-50		\$121.87	\$134.85	\$139.84	\$145.02	\$150.39	\$155.96
Restaurants 51-75		\$157.80	\$178.36	\$184.96	\$191.81	\$198.91	\$206.27
Barb/Dry Clean/Retail		\$40.02	\$45.91	\$47.62	\$49.39	\$51.22	\$53.12
Laundries		\$252.25	\$274.00	\$284.14	\$294.66	\$305.57	\$316.88
Grocery (full with grinders)		\$49.87	\$69.82	\$72.41	\$75.09	\$77.87	\$80.76
Self Service		\$49.95	\$28.26	\$29.31	\$30.40	\$31.53	\$32.70
Auto Repair Shops		\$98.75	\$117.47	\$121.82	\$126.33	\$131.01	\$135.86
Hotels/Motels		\$21.65	\$21.46	\$22.26	\$23.09	\$23.95	\$24.84
Business Offices		\$43.00	\$48.18	\$49.97	\$51.82	\$53.74	\$55.73
Churches		\$49.95	\$48.13	\$49.91	\$51.76	\$53.68	\$55.67
Car Washes		\$81.34	\$82.25	\$85.30	\$88.46	\$91.74	\$95.14
Bars/Taverns		\$49.95	\$47.35	\$49.11	\$50.93	\$52.82	\$54.78
Outside SF and MH		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
Headstart (Day Care Center) [1]		\$86.68	\$1.00	\$1.04	\$1.08	\$1.12	\$1.17
St. Joseph (Day Care Center) [1]		\$273.18	\$1.00	\$1.04	\$1.08	\$1.12	\$1.17
West Hills Child Development [1]		\$49.95	\$1.00	\$1.04	\$1.08	\$1.12	\$1.17
Public Housing Authority		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
West Hills Community College [1]		\$49.95	\$1.15	\$1.20	\$1.25	\$1.30	\$1.35
F/B Las Deltas School District [1]		\$273.18	\$1.15	\$1.20	\$1.25	\$1.30	\$1.35
Market/Laundry		\$498.94	\$517.48	\$536.63	\$556.49	\$577.09	\$598.45
Toma-Tek (Domestic)		\$670.00	\$121.23	\$125.72	\$130.38	\$135.21	\$140.22
Storage		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32

[1] Charged by the Average Daily Attendance (ADA) beginning April 1, 2019.

Wastewater Customer Bill Impacts

The impacts to wastewater single-family residential bills from the proposed water rate structure may be seen from inspection of Table ES-4. The monthly bill will increase from \$49.95 to \$50.41, an increase of \$0.46, or 0.9

percent. The change in the monthly bill occurs because of the updating of the wastewater charges based on cost of service.

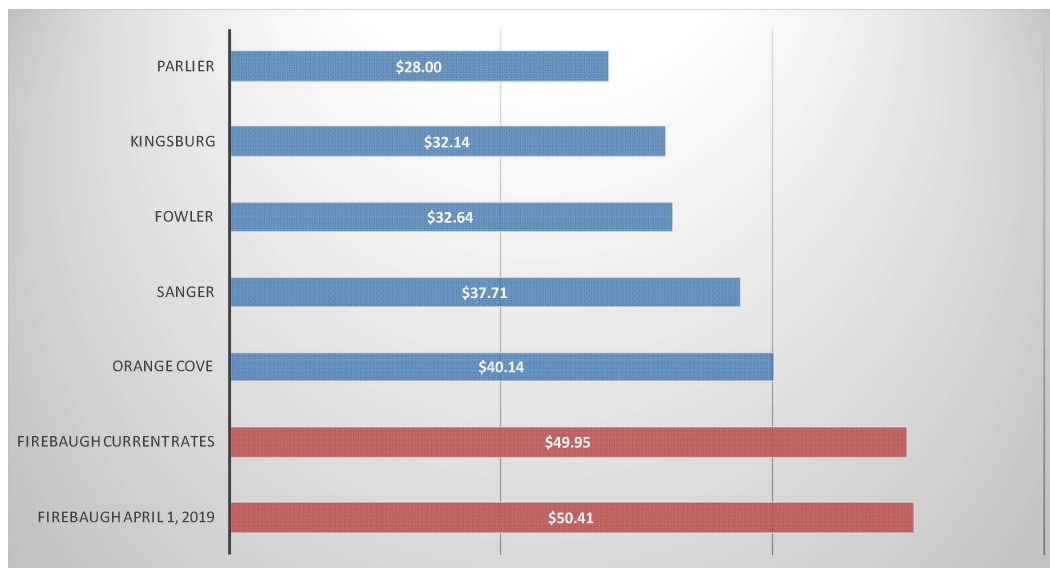
Table ES-5
Proposed Septage Disposal Charges

Septage Disposal	Current	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
<u>From (gallons)</u>	<u>To (gallons)</u>					
0	1,000	\$30.89	\$62.41	\$64.72	\$67.12	\$69.61
1,000	1,499	\$40.29	\$127.98	\$132.72	\$137.64	\$142.74
1,500	1,999	\$49.69	\$193.55	\$200.72	\$208.15	\$215.86
2,000	2,499	\$59.09	\$259.12	\$268.71	\$278.66	\$288.98
2,500	2,999	\$68.49	\$324.69	\$336.71	\$349.17	\$362.09
3,000	3,499	\$77.89	\$390.26	\$404.71	\$419.69	\$435.22
3,500	3,999	\$87.29	\$455.83	\$472.70	\$490.19	\$508.33
4,000	4,499	\$96.69	\$521.40	\$540.70	\$560.71	\$581.46
4,500	4,999	\$106.69	\$586.97	\$608.70	\$631.23	\$654.59
5,000	5,499	\$115.49	\$652.54	\$676.69	\$701.73	\$727.70
5,500	5,999	\$124.89	\$718.12	\$744.69	\$772.25	\$800.83
6,000	6,499	\$134.29	\$783.69	\$812.69	\$842.76	\$873.95
Each 500 gal Over	6,499	\$9.40	\$65.57	\$68.00	\$70.52	\$73.13
						\$75.84

Wastewater Rate Survey

Chart ES-1 has been prepared to compare the City's single-family residential wastewater bill with wastewater bills of other communities at the same consumption. The chart indicates that with the April 2019 wastewater rate structure change, a Firebaugh single-family residential customer with a monthly consumption of 11 thousand gallons (kgal) will experience a bill that is in the upper range of the communities listed.

Chart ES-2
Survey of Single-family Residential Monthly Wastewater Bills Using 11 kgal
For Rates in Effect November 2018



Note: Above table uses wastewater rates in effect November 2018. The Firebaugh April 2019 bill is based on the rate structure and rates in Tables ES-4.

Introduction

The City of Firebaugh (City) engaged Tuckfield & Associates to conduct a Water and Wastewater Rate Study (Study) for its water and wastewater enterprises. This Study includes development of pro forma statements of revenues and revenue requirements, analyses to determine the cost of service of each customer class, and design of new water and wastewater rates and charges for implementation.

Background

The City of Firebaugh, California is located in Fresno County approximately 46 miles west of the City of Fresno. The City provides water and wastewater service to a population of approximately 8,300 with the customer base consisting of residential, commercial, industrial, schools, and contract customers. The majority of customers are residential. Water and wastewater service are accounted for separately as enterprise funds of the City.

This City's water is supplied by 5 wells and one standby well. Water treatment facilities consist of two treatment sites located on opposite sides of the San Joaquin River. Wells No. 9, 10, and 13 discharge to treatment site No. 1 on the north side of the river while wells No. 7, 11, and 12 discharge to treatment site No. 2 on the south side. Water treatment includes chlorination and iron and manganese removal. Treated water is pressure filtered and stored in two 1.8 MG reservoirs, with one reservoir located at each site.

The water distribution system consists of booster pumps, a 0.5 MG reservoir, water mains ranging in size from 4 to 12 inches in diameter, valves, and metering of the City's customers. Each treatment site has one booster pump and a standby pump. Another booster pump is located at the 0.5 MG reservoir.

The City's wastewater is collected through a sewer system and is treated at wastewater facilities owned and operated by the City. The treatment facilities are aerated pond secondary treatment facilities covering 230 acres and designed for 1.5 mgd of capacity.

The City has a large wastewater industrial customer identified as Toma-Tek and is a tomato processor. The City and Toma-Tek have a contract for wastewater service where facilities have been constructed separately from the City's domestic waste to treat industrial tomato waste. The industrial treatment facility receives tomato processing wastewater generally during a 90-day processing season from late June through September each year. Under the contract terms, the City prepares an invoice for Toma-Tek for direct expenses plus overheads to operate the industrial wastewater treatment facility.

Objectives

The objectives of this Study are to (1) review the current and future financial status of the City's water and wastewater enterprises, (2) make any adjustments to the revenue being received to ensure that the financial obligations are being met now and in the future, including adequate reserves and debt service coverage, and (3) design rates that generate the required revenue while being fair and equitable for its customers.

Scope of the Study

This Study includes the findings and recommendations of analyzing the water and wastewater enterprise funds and financial status. Historical trends were analyzed from data supplied by the City showing the number of customers, water consumption volumes, revenue, and revenue requirements.

Revenue requirements of the System include operation and maintenance expense, routine capital outlays, replacement transfers, debt service, and additions to reserves. Changing conditions such as additional facilities, system growth, employee additions/reductions, and non-recurring maintenance expenditures are recognized. Inflation for ongoing expenditures is included to reflect cost escalation.

The financial plan and rates developed herein are based on funding of the capital improvement plan as stated as well as estimates of operation and maintenance expenses developed from information provided by the City. Deviation from the financial plans, construction cost estimates and funding requirements, major operational changes, or other financial policy changes that were not foreseen, may result in the need for lower or higher revenue than anticipated. It is suggested that the City conduct an update to the rate study at least every three years for prudent rate planning.

Assumptions

Assumptions and Planning Factors

Several assumptions were used to conduct the Study for the period FY 2018-19 to FY 2022-23. The assumptions were used for the water revenue and expense projections and include growth rates in customer accounts and annual consumption, expense inflation factors, and other assumptions. The financial planning factors are provided in Table 1.

Table 1
Assumptions and Planning Factors

Description	Value
Single-family Residential Account growth [1]	0.50%
All Other Account growth [1]	0.00%
Interest earnings on fund reserves (annual)	1.00%
Cost Escalation	
Salaries (annual, [2])	4.0%
Benefits	8.0%
Electrical Power	4.0%
Chemicals	3.0%
All Other Operations & Maintenance	3.0%
Capital	3.0%

[1] Annualized growth in water accounts is based on historical information provided by staff.

[2] Personnel Services growth in staffing, promotions and inflation are 4 percent annually.

Water System Reserve Policy

The City currently does not currently have a written reserve policy, however goals for maintaining reserves for water and wastewater operations and capital spending have been discussed with the City and have been developed for use in this Study. A reserve policy provides a basis to deal with unanticipated reductions in revenues, changes in the costs of providing services, fixed asset repair and replacement, natural disaster, and other issues. It also provides guidelines to maintain the financial health and stability of the enterprise funds. The appropriate reserve types and the amount of reserves are discussed below and include the following.

Operating Reserve – The purpose of the Operating Reserve is to provide working capital to meet cash flow needs during normal operations and to support the operation, maintenance and administration of the utility. This reserve ensures that operations can continue should there be significant events that impact cash flows. The target balance to be maintained is established as 180 days of operation and maintenance expense.

Capital Replacement Reserve – The Capital Replacement Reserve is used to fund future replacement of assets and capital projects and to provide a cushion for inaccuracy in the long-range replacement program. The target reserve is set as equal to 50 percent of depreciation expense of each system.

Emergency Capital – The purpose of the emergency capital reserve is to provide funds for emergency repair and replacement in the case of catastrophic loss in the System. The target balance is established as 3 percent of the value of capital assets of each system.

Water System Beginning Balances and Reserve Targets

As of June 30, 2018, the City's beginning water and wastewater system reserve balances are listed in the table below. The cash balances are compared to the Target Reserves established for the City as discussed above. The cash balances are used in the development of the financial plans for each of the water and wastewater systems with the intent to meet the Target Reserve during or by the end of the Study period.

Table 2
June 30, 2018 Estimated Beginning Cash Balances and Reserve Targets

Reserve Type	Water		Wastewater	
	Reserve Balance	Reserve Target	Reserve Balance	Reserve Target
Operating Reserve	\$1,270,300	\$562,000	\$29,800	\$624,000
Capital Replacement Reserve	\$1,113,000	\$213,000	\$78,000	\$81,000
Capital Emergency Reserve	\$0	\$332,000	\$156,000	\$156,000
Expansion Reseve	\$0	n/a	\$425,000	n/a
Total	\$2,383,300	\$1,107,000	\$688,800	\$861,000

Water Financial Planning

Financial planning for the System includes identifying and projecting revenues and revenue requirements for a five-year planning period. Estimates of revenue from various sources are compared with the projected revenue requirements of the System. This comparison allows the review of the adequacy of existing revenue to meet annual System obligations, and provide the basis for any rate adjustments. New water rates and charges are created to recover all of the City's annual operating and capital costs associated with the System.

This section discusses current water rates, current user classifications, projected revenues and revenue requirements, capital improvement expenditures and financing sources, and proposed revenue adjustments.

Current Water Fixed and Variable Charges

The current water rates consist of fixed and variable charges to residential and non-residential customers. All customers are charged a monthly fixed charge while Industrial customers are charged a fixed charge by meter size. Table 3 provides the current water fixed charges by customer class.

Table 3
Current Monthly Water Fixed Charges

Classification	Meter Size	Current July 1, 2015
Industrial	2 inch	\$205.23
	3 inch	\$273.64
	4 inch	\$478.88
	6 inch	\$889.35
	8 inch	\$957.76
	10 inch	\$1,094.58
	14 inch	\$1,368.22
Classification		Current July 1, 2015
Single-family Residential		\$25.48
MFR <= 3 DU		\$17.40
MFR => 4 DU & MH		\$24.11
Motels & Cabins		\$8.06
Public Authority/Schools		\$64.70
Commercial		\$42.08
Single Family Non-Metered (R1)		\$22.93
Public Housing Authority Non-Metered (R2)		\$35.84
MFR => 4 DU & MH Non-Metered (R3)		\$33.91
Motels & Cabins Non-Metered (R4)		\$11.34

Variable charges include a four-tier rate structure for SFR customers and a two-tier rate structure for MFR, Commercial, Public Authority, and Las Deltas customers. Industrial customers are charged a uniform volume rate. The current variable water charges are presented in Table 4.

Table 4
Current Monthly Water Variable Charges

Classification	Current July 1, 2015
Single-family Residential	
Tier 1 - 0 to 12 units	\$0.00
Tier 2 - 13 to 22 units	\$2.51
Tier 3 - 23 to 32 units	\$2.74
Tier 4 - Over 33 units	\$3.01
Multifamily Residential	
Tier 1 - 0 to 12 units	\$0.00
Tier 2 - Over 12 units	\$2.51
Commercial	
Tier 1 - 0 to 25 units	\$0.00
Tier 2 - Over 25 units	\$2.74
Industrial	\$2.52
Public Authority/Schools	
Tier 1 - 0 to 25 units	\$0.00
Tier 2 - Over 25 units	\$2.74
Landscape	
Tier 1 - 0 to 25 units	\$0.00
Tier 2 - Over 25 units	\$2.74
Las Deltas	
Tier 1 - 0 to 5,000 units	\$2.74
Tier 2 - Over 5,000 units	\$3.01
All Other	\$2.74

Water User Classifications

Number of Customers

The City currently classifies customers as Single-family Residential, Multifamily Residential (including ≤ 3 units, ≥ 4 units, and mobile home), Commercial, Industrial, Public Authority, and Las Deltas. SFR customers account for more than 75 percent of the total customers served by the System. Growth is projected to occur only in SFR accounts of 0.50 percent annually or 8 accounts added each year, following the assumptions in Table 1. Table 5 provides the historical and projected number of customers by classification.

Number of Water Meters

The City recently completed the installation of water meters throughout the City. The majority of residential customers have 1-inch meters installed at the service location and this size is the minimum for installation for the City's customer base. Table 6 provides a summary of the number of current and projected meters by size.

Table 5
Historical and Projected Water Customers by Classification

Customer Class	Actual	Projected				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Number of Accounts ^[1]						
Single-family Residential	1,509	1,517	1,525	1,533	1,541	1,549
Multifamily Residential	69	69	69	69	69	69
Commercial	118	118	118	118	118	118
Industrial	10	10	10	10	10	10
Public Authority/Schools	15	15	15	15	15	15
Landscape	20	20	20	20	20	20
Las Deltas Residential	82	82	82	82	82	82
Las Deltas Commercial	19	19	19	19	19	19
Public Housing Authority	185	185	185	185	185	185
Total Accounts	2,027	2,035	2,043	2,051	2,059	2,067
Fire Protection						
Public Fire Protection	218	218	218	218	218	218
Private Fire Protection	3	3	3	3	3	3
Total Fire Protection Accounts	221	221	221	221	221	221

[1] Single-family accounts are forecast to increase based on the assumed growth rate of 0.50% annually.

Table 6
Projected Number of Water Meters

Meter Size	Actual	Projected				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Active Water Meters/Accounts ^[1]						
1 inch	1,870	1,878	1,886	1,894	1,902	1,910
1-1/2 inch	122	122	122	122	122	122
2 inch	16	16	16	16	16	16
3 inch	7	7	7	7	7	7
4 inch	7	7	7	7	7	7
6 inch	4	4	4	4	4	4
14 inch	1	1	1	1	1	1
Total Accounts	2,027	2,035	2,043	2,051	2,059	2,067

[1] Includes Outside City customers and excludes Fire Protection. Information provided by City billing records.

Water Sales Volumes

Table 7 provides the historical and projected water sales volume by customer classification. Water sales volumes were projected by recognizing the growth in the number of accounts and the FY 2017-18 use per customer.

Table 7
Projected Water Consumption (in 1,000 gal)

Description	Estimated	Projected [1]				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Single-family Residential	197,636	198,684	199,732	200,780	201,827	202,875
Multifamily Residential	51,919	51,919	51,919	51,919	51,919	51,919
Commercial	28,312	28,312	28,312	28,312	28,312	28,312
Industrial	189,057	189,057	189,057	189,057	189,057	189,057
Public Authority/Schools	16,017	16,017	16,017	16,017	16,017	16,017
Landscape	6,578	6,578	6,578	6,578	6,578	6,578
Las Deltas Residential	38,908	38,908	38,908	38,908	38,908	38,908
Las Deltas Commercial	6,873	6,873	6,873	6,873	6,873	6,873
Public Housing Authority [2]	24,230	24,230	24,230	24,230	24,230	24,230
Total Projected Consumption	559,530	560,578	561,626	562,674	563,721	564,769

[1] Forecast assumes the use per customer from FY 17-18, applied to the projected number of customers.

[2] Forecast assumes the same use per customer of the Single-family Residential class.

Table 7 shows that the largest user of the water system is SFR, followed by the Industrial group as the second largest water consumer in terms of water sales volume.

Water Financial Plan

The financial plan provides the means of analyzing the revenue and revenue requirements of the water enterprise and its impact on reserves as well as the ability to fund on-going operation and maintenance expense and capital infrastructure requirements. This section of the Report discusses the projection of revenue, operation and maintenance expenses, capital improvement needs of the System and its financing, debt and debt service requirements, and revenue adjustments needed to maintain a sustainable water enterprise.

Revenues

The City receives operating and capital revenue from several sources. Operating revenue is received from rates and charges for water service. Miscellaneous revenue received includes penalties/late fees, backflow prevention fees, water turn on fees, temporary hydrant charges, interest income and other sources. Table 8 presents the projected fixed and variable charge revenue from current water rates of the System. The revenue is projected by applying the current water rates to the projected number of accounts and consumption volume. Miscellaneous revenue is provided in Table 9.

Table 8
Projected Rate-based Water Revenue Using Existing Rates

Description	Actual	Projected				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Water Service Revenues						
Fixed Charges [1]	\$759,186	\$761,632	\$764,078	\$766,524	\$768,970	\$771,416
Variable Charges [2]	835,132	835,967	836,799	837,633	838,464	839,298
Total Revenues From Current Rates	\$1,594,318	\$1,597,599	\$1,600,877	\$1,604,157	\$1,607,434	\$1,610,714

[1] Estimated FY 18-19 and forecast years' revenue calculated by multiplying current water service rate by the number of projected meters.

[2] Estimated FY 18-19 and forecast years' revenue calculated by multiplying projected water sales by the current variable rates.

Table 9
Projected Miscellaneous Water Revenue

Description	Actual	Projected				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Penalties/Late Fees	\$35,580	\$36,650	36725	36800	36876	36951
Backflow Prevention Program	\$1,600	1,600	1,600	1,600	1,600	1,600
Miscellaneous Income	\$6,697	6,000	6,000	6,000	6,000	6,000
Water Turn On/Off	\$5,929	6,300	6,300	6,300	6,300	6,300
Water Service Hydrant	3,616	4,000	4,000	4,000	4,000	4,000
Rate Stabilization		150,000	0	0	0	0
Total Rate-based Revenues	\$53,422	\$204,550	\$54,625	\$54,700	\$54,776	\$54,851

Revenue Requirements

Revenue requirements of the System include operation and maintenance expense, annual capital replacement transfer, and existing debt service payments. Each of these items are discussed below.

Operation and Maintenance Expense

Operation and maintenance expenses (O&M) are an on-going obligation of the water system and such costs are normally met from water service revenue. O&M includes the cost to operate and maintain the water supply, reservoirs, and distribution system facilities. Costs also include technical services and other general and administrative expenses.

O&M has been projected recognizing the major expense categories of personnel services, electric power expense, chemicals, all other expenses, and capital outlay. Personnel costs consist of salaries and benefits expense of those personnel directly involved with providing water service. Future salaries expense is projected to increase by 4 percent annually while benefits expense is projected to increase by 8 percent annually. Electric power expense is projected to increase annually at 4 percent while chemicals and all other O&M expense is projected to increase at 3 percent annually. Capital outlay is projected to increase by 3 percent annually. Table 10 provides a summary of the O&M expenses for the Study period.

Table 10
Historical and Projected Water Operation and Maintenance Expenses

Description	Budget	Projected			
	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Salaries and Benefits	\$536,498	\$557,958	\$580,274	\$603,485	\$627,624
Electricity	289,000	300,560	312,582	325,085	338,088
Chemicals	32,000	32,960	33,949	34,967	36,016
Other O&M	266,300	274,292	282,520	290,996	299,730
Capital Outlay	1,000	1,030	1,061	1,093	1,126
Total O&M Expense	\$1,124,798	\$1,166,800	\$1,210,386	\$1,255,626	\$1,302,584

Capital Replacement Transfer

Water line replacements occur on an annual basis for most water systems. The City plans for water line replacements in its capital planning and these replacements occur from time to time during the fiscal year. An annual amount is transferred from the operating fund to the capital fund to aid in funding these replacements. The amount is approximately equal to 50 percent of depreciation expense.

Existing Debt Service

The City has outstanding debt that includes two separate issues consisting of the 2013 and the 2016 Revenue Refunding Bond obligations. The 2013 Revenue Refunding debt has annual debt service payments of about \$125,000 and will be retired in 2031. The 2016 Revenue Refunding debt has annual debt service payments of about \$205,000 and will be retired in 2046.

Water Capital Improvement Program

The City has developed a capital improvement program (CIP) spending plan for FY 2018-19 through FY 2022-23. These improvements are not specific but are planned as annual replacements that occur from year to year. Over this period, it is planned that the City would spend about \$200,000 annually in water replacement projects.

For rate planning, an annual amount of \$213,000 is transferred from the water operating fund for annual capital replacement which is equal to about half of annual depreciation expense.

Water Financial Plan

A financial plan has been prepared that includes the revenues and revenue requirements that were identified for the water system and is presented in Table 11. The plan incorporates specific financial planning criteria to provide guidance to maintain the health of the water utility on an on-going basis. The criteria included the following.

- Generate positive levels of income in each year of the Study period
- Maintain the operating and capital reserves at or greater than target levels
- Maintain debt service coverage ratios at or greater than the minimum required
- Meet annual capital replacement spending from annual revenue and capital reserves

Proposed Revenue Adjustments

Table 11 provides the annual increases recommended to meet the financial planning criteria for the five-year Study period. The financial plan indicates that revenue increases of 3.0 percent are required beginning April 1, 2019, and on each January 1 thereafter for the remainder of the Study period. The increases are necessary to meet the planning criteria discussed above.

Table 11
Water Financial Plan

Description	Projected				
	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Proposed Rate Increase (April 1)	3.0%				
Proposed Rate Increase (January 1)		3.0%	3.0%	3.0%	3.0%
Sources of Funds					
Rate-based Revenues, Existing Rates [1]	\$1,597,599	\$1,600,877	\$1,604,157	\$1,607,434	\$1,610,714
Total Additional Water Sales Revenue [2]	3,994	64,515	114,712	166,618	220,287
Miscellaneous Income	204,550	54,625	54,700	54,776	54,851
Interest Income	24,800	25,900	26,600	27,300	28,200
Total Sources of Funds	\$1,830,943	\$1,745,917	\$1,800,169	\$1,856,128	\$1,914,052
Uses of Funds					
O&M and Capital Outlay	\$1,124,798	\$1,166,800	\$1,210,386	\$1,255,626	\$1,302,584
Replacement Transfer (Depr)	213,000	213,000	213,000	213,000	213,000
2016 Revenue Refunding Bonds	203,788	202,188	204,788	207,238	204,538
2013 Revenue Refunding Bonds	122,648	119,772	126,638	123,244	124,698
Total Uses of Funds	\$1,664,233	\$1,701,759	\$1,754,811	\$1,799,108	\$1,844,819
Net Funds Available	\$166,710	\$44,158	\$45,358	\$57,020	\$69,233
Available Reserves					
Beginning available reserves [3]	\$1,270,300	\$1,437,010	\$1,481,167	\$1,526,525	\$1,583,545
Additions (reductions)	166,710	44,158	45,358	57,020	69,233
Ending available reserves	\$1,437,010	\$1,481,167	\$1,526,525	\$1,583,545	\$1,652,778
Target Reserves [4]	\$562,000	\$583,000	\$605,000	\$628,000	\$651,000
Above (below) Target	\$875,010	\$898,167	\$921,525	\$955,545	\$1,001,778
Debt Service Coverage					
Net Revenues	\$706,145	\$579,117	\$589,783	\$600,502	\$611,468
Annual Debt Service	\$326,435	\$321,959	\$331,425	\$330,482	\$329,235
Coverage	216%	180%	178%	182%	186%

[1] Projected water sales revenues using July 1, 2015 water rates.

[2] Additional revenue from rate adjustments.

[3] The available FY 18-19 cash balance provided by the City.

[4] Target reserve estimated at 50% of operation and maintenance expense.

Water Cost of Service

This section of the report discusses the allocation of the water system's operating and capital costs to customer classifications. Establishing rates in California requires that the agency responsible for imposing property-related fees create a nexus between the cost of providing service and the rates to be imposed.

Industry Methodology

This Study uses methodologies from the American Water Works Association (AWWA) to allocate costs in an appropriate manner. AWWA is an industry trade organization providing guidance on operations and management of water utilities. General principles are provided to assist agencies with the design of water rates such that the rates may be consistent with local requirements while also recognizing state laws and legal framework. The AWWA guidelines have been used to conduct this water study and have been used in the design of the City's water rates while also following Proposition 218 and the recent San Juan Capistrano court decision.

The annual costs of providing water service from the financial plan are allocated to cost components according to industry standards provided in the American Water Works Association (AWWA) Manual M1. The methodology provides the basis to design rates to generate adequate revenue to meet estimated annual revenue requirements from the financial plan. Costs are then recovered through the most appropriate revenue mechanism, including fixed charges and variable charges.

Costs of Service to be Allocated

The annual cost of service consists of O&M expenses and capital costs of the water system. O&M expenses include costs related to water distribution, maintenance of the facilities, and general and administrative costs. Capital costs include annual capital replacement and existing debt service discussed in the financial plan.

To design rates for the water system, costs need to first be allocated to water system cost component based on the operating characteristics and design of the water system facilities. Cost allocations consider the average quantity of water consumed as well as the peak rate at which water is consumed. The water system is designed to serve average and peak demands, and costs that are related to serving average and peak demands are allocated in a manner such that they may be recovered appropriately.

The cost allocation components for water service are Water Supply, Delivery, Peaking, Meters and Services, Customer, and Direct Fire Protection. A five-year average of the operating and capital costs of the water system are assigned to each of these parameters. The result is a percentage allocation of the annual costs of service to each cost component which is then applied to the annual revenue requirement. The total cost to be recovered from the users of the water system by cost component for FY 2018-19 is presented in Table 12.

Table 12
Allocation of Revenue Requirements to Cost Component

	5-Year	Water	Fixed			Customer		Direct	
Description	Average	Supply	Delivery	Max Day	Max Hour	Meters/Serv	Customer	Fire	
Protection									
Operation and Maintenance									
Personnel Servies	\$581,169	\$0	\$32,318	\$247,350	\$86,468	\$116,234	\$69,740	\$29,058	
Materials and Supplies	59,410	33,978	9,091	10,824	3,784	-	1,733	-	
Insurance	22,298	-	6,814	9,490	3,318	-	2,676	-	
Electricity	313,063	281,757	-	-	31,306	-	-	-	
Repair/Maintenance	73,585	-	31,318	31,318	10,948	-	-	-	
Professional Fees	95,406	-	29,157	40,606	14,195	-	11,449	-	
Equipment	1,062	-	325	452	158	-	127	-	
Meter Installations	15,928	-	-	-	-	15,928	-	-	
All Other	50,120	-	16,139	21,331	7,457	-	5,192	-	
Total Average O&M	\$1,212,041	\$315,735	\$125,162	\$361,372	\$157,634	\$132,162	\$90,918	\$29,058	
Capital Costs									
Replacement Transfer (Depr)	\$213,000	\$0	\$90,655	\$90,655	\$31,691	\$0	\$0	\$0	
Current Debt Service	204,508	-	87,040	87,040	30,427	-	-	-	
Total Average Capital	\$417,508	\$0	\$177,695	\$177,695	\$62,118	\$0	\$0	\$0	
Total Average Revenue Requirement	\$1,629,549	\$315,735	\$302,857	\$539,067	\$219,752	\$132,162	\$90,918	\$29,058	
Percentage Allocation		19.4%	18.6%	33.1%	13.5%	8.1%	5.6%	1.8%	
	Fiscal	Total	Water	Fixed			Customer		Direct
	Year	Revenue	Supply	Delivery	Max Day	Max Hour	Meters/Serv	Customer	Fire
		Requirement							Protection
	FY 18-19	\$1,645,527	\$318,831	\$305,827	\$544,353	\$221,907	\$133,458	\$91,809	\$29,343

Water Rate Design

The cost of service analyses described in the previous section provides the basis for water rate design. The emphasis on the design of rates is to achieve fairness and ensuring that each customer class pays its fair share of costs. Rates should be simple to administer, easy to understand, and comply with regulatory requirements. This section describes how water rates and charges are designed and includes the proposed schedule of water rates for implementation.

Proposed Rate Structure

The recommended water rate structure includes modifying the current rate structure to include a fixed charge by meter size for all customers and to modify the variable charge to revise the tier break points for SFR customers and provide an individual uniform volume charge for other customer classifications.

Proposed Fixed Charges

The proposed fixed charges recover the Meters and Services and Customer costs of service identified from Table 11 and also recovers costs allocated to public fire protection. Meters and Services costs are recovered based on meter and service ratios provided by AWWA. Customer costs are recovered based on the number of bills issued.

Tables 13 below presents the design of the proposed monthly fixed charges for customers for FY 2018-19. The current fixed charges generate about 40 percent of revenue from water rates. The proposed fixed charges generate approximately 25 percent of the revenue from water rates.

Table 13
Design of Fixed Charges

Customer Service Cost		FY 18-19
Customer Cost		\$91,809
Number of Bills		24,420
Customer Cost per Unit		\$3.76
Meters and Services Cost		FY 18-19
Meters and Services Cost		\$133,458
Number of Equivalent Meters & Services		27,507
Meters and Services Cost per Unit		\$4.85
Peaking Costs		FY 18-19
Public Fire Protection		198,042
Number of Equivalent Meters		30,672
Peaking Cost per Unit		\$6.46
Base Fixed Charge - 5/8" thru 1"		\$15.07

Fixed charges for meter sizes greater than 1-inch are increased as shown below in Table 14 for FY 2018-19. The Meter and Services charge increases with meter and service cost ratios while the Peaking/Capacity charge increases with meter capacity ratios. The Customer charge does not increase with meter size.

Table 14
Design of Fixed Charges By Meter Size

FY 18-19

Meter Size inches	Meter & Service Ratio	Monthly Meter Charge	Meter Capacity Ratio	Monthly Capacity Charge	Monthly Customer Charge	Total Monthly Charge
5/8 & 3/4 inch	1.0	\$4.85	1.0	\$6.46	\$3.76	\$15.07
1 inch	1.0	\$4.85	1.0	\$6.46	\$3.76	\$15.07
1-1/2 inch	1.3	\$6.24	2.0	\$12.92	\$3.76	\$22.92
2 inch	2.1	\$10.05	3.2	\$20.67	\$3.76	\$34.48
3 inch	7.9	\$38.11	6.4	\$41.34	\$3.76	\$83.21
4 inch	10.0	\$48.50	10.0	\$64.60	\$3.76	\$116.86
6 inch	15.0	\$72.75	24.0	\$155.04	\$3.76	\$231.55

Industrial Fixed Charges. Fixed charges for Industrial customers are established such that they include a monthly volume by meter size charged at the average water system consumption rate. The volume is included in the fixed charge to recognize the seasonal nature of this type of water service and stabilize the revenue stream. Table 15 provides the monthly fixed charges applicable to Industrial customers only.

Table 15
Design of Industrial Fixed Charge

Meter Size	Volume Included in Fixed Charge	Average Volume Charge	Charge for Volume in Fixed Charge
1 inch and smaller	25	\$3.01	\$75.17
1-1/2 inch	50	\$3.01	\$150.34
2 inch	75	\$3.01	\$225.50
3 inch	100	\$3.01	\$300.67
4 inch	175	\$3.01	\$526.18
6 inch	325	\$3.01	\$977.19
8 inch	350	\$3.01	\$1,052.35
10 inch	400	\$3.01	\$1,202.69
12 inch	450	\$3.01	\$1,353.03
14 inch	500	\$3.01	\$1,503.36

Private Fire Protection Fixed Charges. Annual costs allocated to the Fire Protection cost component are separated into Public and Private Fire Protection costs. Public Fire Protection costs are included into the monthly

service charges as shown in Table 13. Private Fire Protection costs are recovered from those customers that receive the direct fire protection benefit. The monthly cost by equivalent hydrant size is provided in Table 16 and the monthly private fire protection charges are designed as shown in Table 17.

Table 16
Design of Private Fire Protection Charges

Fire Protection Cost	FY 18-19
Private Fire Protection	\$2,322
Private Fire Protection Eq. Hydrants	36
Private Fire Protection Charge	\$64.49

Table 17
Design of Private Fire Protection Charges By Fireline Size

Fireline Size	Hydrant Ratio	Monthly Fireline Charge
1 inch	0.01	\$0.58
1-1/2 inch	0.03	\$1.68
2 inch	0.06	\$3.59
3 inch	0.16	\$10.42
4 inch	0.34	\$22.20
6 inch	1.00	\$64.49
8 inch	2.13	\$137.42
10 inch	3.83	\$247.14

Proposed Variable Charges

Variable charges are designed to recover the Water Supply, Delivery, and Peaking costs from Table 12. Consumption and peaking characteristics of water system customers were analyzed to allocate costs to customer classification as well as between each tier.

Water Supply Costs. The City's water supply source consists of groundwater. Water supply costs are shared uniformly by all customers of the system.

Delivery Costs. Delivery costs are operating and capital costs of the water system related to delivering water to all customers at an average rate of use. Delivery costs tend to vary with the total quantity of water consumed under average-load conditions. These costs are also shared uniformly by all customers of the system.

Peaking Costs (Max Day and Max Hour). Peaking costs are costs associated with meeting peak demand rates of use requirements of the water system and include operating and capital costs beyond that required for average rates of use. Water system facilities are designed to meet peak characteristics and are apportioned to customer classes based on their system use characteristics. Peaking costs may be assigned to tiers in a tiered-rate structure based on the customers within the tier that are causing the peak demand.

Proposed Single-family Residential Variable Charges

For this Study it is proposed that a three-tier rate structure be applied to Single-family Residential (SFR) customers. For SFR customers, Tier 1 is defined as consumption to provide basic indoor water use and is based on an assumed 4 persons per household (pph) using 55 gallons per capita per day (gpcd) resulting in a Tier 1 breakpoint of 7 kgal (4 pph x 55 gpcd x 365 days ÷ 1,000 gal ÷ 12 billing periods). Tier 2 is defined as consumption related to outdoor water use and is all water consumed beyond Tier 1 and below Tier 3. Tier 3 is defined as excessive use beyond

Tier 2 to encourage water conservation. The Tier 3 breakpoint is defined as the SFR summer peak demand, determined from billing information to be 15 HCF.

Table 18 provides a summary of the variable rate components applicable to the SFR classification consisting of Water Supply, Delivery, and Peaking costs. For SFR, peaking costs are allocated to the defined tiers based on the peaking factors of that occur from customers within the tiers based on the tier break points discussed above. Tier 1 is considered to have a peaking factor of 1.0, Tier 2 and Tier 3 have peaking factors that reflect the average use per customer within these tiers as a ratio to Tier 1.

Table 18
Design of Single-family Residential Tiered Rate Structure
FY 18-19

Water Supply Component of Commodity Charge						
Line No.	Tier	Tier Range	Consumption	% Share	Base Costs	Unit Rate
1	Tier 1	0 - 7	98,822	49.7%	\$56,205	\$0.57
2	Tier 2	8 - 15	54,963	27.7%	\$31,260	\$0.57
3	Tier 3	Over 15	44,899	22.6%	\$25,537	\$0.57
4			198,684	100.0%	\$113,002	
Delivery Supply Component of Commodity Charge						
Line No.	Tier	Tier Range	Consumption	% Share	Base Costs	Unit Rate
1	Tier 1	0 - 7	98,822	49.7%	\$53,913	\$0.55
2	Tier 2	8 - 15	54,963	27.7%	\$29,985	\$0.55
3	Tier 3	Over 15	44,899	22.6%	\$24,495	\$0.55
4			198,684	100.0%	\$108,393	
Peaking Component of Commodity Charge						
Line No.	Tier	Tier Range	Peaking Factor	Weighted Consumption	Peaking Costs	Unit Rate
5	Tier 1	0 - 7	1.00	98,822	\$35,361	\$0.36
6	Tier 2	8 - 15	2.03	111,342	\$39,841	\$0.72
7	Tier 3	Over 15	3.76	168,959	\$60,457	\$1.35
8				379,123	\$135,659	
Sum of Commodity Charge Components						
Line No.	Tier	Tier Range	Water Supply	Delivery	Peaking Rate	Total Rate in Tier
9	Tier 1	0 - 7	\$0.57	\$0.55	\$0.36	\$1.47
10	Tier 2	8 - 15	\$0.57	\$0.55	\$0.72	\$1.84
11	Tier 3	Over 15	\$0.57	\$0.55	\$1.35	\$2.46

The sum of the three component's unit rates equals the water rates in the tiers for the SFR classification. Table 18 sums the Water Supply, Delivery, and Peaking unit rates and provides the resulting water rates by tier. Each

customer class pays for the same Water Supply and Delivery costs per kgal, however each class pays for their individual peaking requirements and associated costs.

Proposed Non-Residential and Landscape Variable Charges

For the other customer classes of Non-Residential and Irrigation, it is proposed that these classes have an individual uniform volume rate structure that recognizes a blending of the three components of Water Supply, Delivery, and Peaking costs. However, Non-Residential and Irrigation each will recognize the individual peaking characteristics of its class in their variable rate. A uniform variable rate structure is recommended for these classes as the Non-Residential customers are intended to have separate Irrigation meters.

Table 19

Design of Non-Residential and Landscape Uniform Volume Rate

FY 18-19

Classification	Water Supply	Delivery	Peaking	Total Costs	Volume	Uniform Rate
					HCF	
Non-residential	\$54,741	\$52,509	\$52,508	\$159,758	96,248	\$1.66
Irrigation	\$3,741	\$3,589	\$7,571	\$14,901	6,578	\$2.27

Proposed Industrial Variable Charges

For Industrial customers, the variable charge is calculated by dividing the costs that were not recovered in the fixed charges by Industrial consumption. The revenue collected through the proposed monthly service charges are subtracted from the total allocated cost to Industrial customers. This remaining cost is divided by Industrial water sales to calculate the variable charge for this customer group. Table 20 provides the variable charge for Industrial Customers.

Table 20

Design of Industrial Volume Charge

Meter Size	Industrial Fixed Charge	Industrial					Volume Charge Rate
		Number of Bills	Industrial Equiv Meters	Service Charge Revenue	Volume Charge Revenue	Volume [1]	
				\$	\$	1,000 gal	\$/1,000 gal
2 inch	\$225.50	36	10	\$8,118			
3 inch	\$300.67	36	19.2	\$10,824			
4 inch	\$526.18	24	20	\$12,628			
6 inch	\$977.19	12	24.0	\$11,726			
14 inch	\$1,503.36	12	172.0	\$18,040			
Total		120	244.8	\$61,337	\$526,073	177,687	\$2.96

[1] Remaining volume not included in fixed charges.

Proposed Water Rates

Tables 21 and 22 present the proposed fixed charges and variable charges respectively for the water system for the next five years. Table 21 includes the current fixed charges, fixed charges for April 1, 2019 developed in the tables above including the Industrial fixed charges, and the future fixed charges for implementation beginning on January 1, 2020 and each January 1 through FY 2022-23. Water fixed and variable charges beyond April 1, 2019 are increased by the percentages shown in the financial plan in Table 11.

Table 21
Proposed Water Fixed Charges

		Current Rate	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
Classification							
Single-family Residential		\$25.48	n/a	n/a	n/a	n/a	n/a
MFR <= 3 DU		\$17.40	n/a	n/a	n/a	n/a	n/a
MFR => 4 DU & MH		\$24.11	n/a	n/a	n/a	n/a	n/a
Motels & Cabins		\$8.06	n/a	n/a	n/a	n/a	n/a
Public Authority/Schools		\$64.70	n/a	n/a	n/a	n/a	n/a
Commercial		\$42.08	n/a	n/a	n/a	n/a	n/a
Single Family Non-Metered (R1)		\$22.93	n/a	n/a	n/a	n/a	n/a
Public Housing Authority Non-Metered (R2)		\$35.84	\$34.69	\$35.73	\$36.80	\$37.90	\$39.04
MFR => 4 DU & MH Non-Metered (R3)		\$33.91	n/a	n/a	n/a	n/a	n/a
Motels & Cabins Non-Metered (R4)		\$11.34	n/a	n/a	n/a	n/a	n/a
Meter Size		Fixed Charge (\$ per month)					
All Customers Except Industrial							
5/8 & 3/4 inch		\$0.00	\$15.07	\$15.52	\$15.99	\$16.47	\$16.96
1 inch and smaller		n/a	\$15.07	\$15.52	\$15.99	\$16.47	\$16.96
1-1/2 inch		n/a	\$22.92	\$23.61	\$24.32	\$25.05	\$25.80
2 inch		n/a	\$34.48	\$35.51	\$36.58	\$37.68	\$38.81
3 inch		n/a	\$83.21	\$85.71	\$88.28	\$90.93	\$93.66
4 inch		n/a	\$116.86	\$120.37	\$123.98	\$127.70	\$131.53
6 inch		n/a	\$231.55	\$238.50	\$245.66	\$253.03	\$260.62
Industrial	Included Volume						
2 inch	75	\$205.23	\$225.50	\$232.27	\$239.24	\$246.42	\$253.81
3 inch	100	\$273.64	\$300.67	\$309.69	\$318.98	\$328.55	\$338.41
4 inch	175	\$478.88	\$526.18	\$541.96	\$558.22	\$574.97	\$592.22
6 inch	325	\$889.35	\$977.19	\$1,006.50	\$1,036.70	\$1,067.80	\$1,099.83
14 inch	500	\$1,368.22	\$1,503.36	\$1,548.46	\$1,594.91	\$1,642.76	\$1,692.04

Table 22 provides the proposed variable charges for the water system. The table includes the current variable charges by rate tier, variable charges for the new rate structure for April 1, 2019 developed in the Study, and the future variable charges for implementation beginning on January 1, 2020 and each January 1 through FY 2022-23.

Table 22
Proposed Water Variable Charges

Classification	Current Rate	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
Variable Charge (\$ per 1,000 gal)						
Single-family Residential						
Tier 1 - 0 to 12 units	\$0.00					
Tier 2 - 13 to 22 units	\$2.51					
Tier 3 - 23 to 32 units	\$2.74					
Tier 4 - 33 and Over	\$3.01					
Tier 1 - 0 to 7 units		\$1.47	\$1.52	\$1.57	\$1.62	\$1.67
Tier 2 - 7 to 15 units		\$1.84	\$1.89	\$1.95	\$2.01	\$2.07
Tier 3 - 15 and Over		\$2.46	\$2.53	\$2.61	\$2.69	\$2.77
Multifamily Residential						
Tier 1 - 0 to 12 units	\$0.00	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Tier 2 - 13 and Over	\$2.51	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Commercial						
Tier 1 - 0 to 25 units	\$0.00	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Tier 2 - 26 and Over	\$2.74	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Industrial (Charge Over Included Volume)	\$2.52	\$2.96	\$3.05	\$3.14	\$3.23	\$3.33
Public Authority/Schools						
Tier 1 - 0 to 25 units	\$0.00	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Tier 2 - 26 and Over	\$2.74	\$1.66	\$1.71	\$1.76	\$1.81	\$1.86
Landscape	n/a	\$2.27	\$2.33	\$2.40	\$2.47	\$2.54
Las Deltas [1]						
Tier 1 - 0 to 5000 units	\$2.74	\$2.82	\$2.90	\$2.99	\$3.08	\$3.17
Tier 2 - 5001 and Over	\$3.01	\$3.10	\$3.19	\$3.29	\$3.39	\$3.49

[1] Contract rate.

Water Bill Impacts

An impact analysis was performed to evaluate the change in Firebaugh single-family customer bills that would occur from the implementation of the proposed water rates for the April 2019 rate structure implementation. The impacts are provided in Table 23. For an average single-family customer with a 1-inch or smaller meter size using 11 thousand gallons (kgal) monthly, the bill will increase from \$25.48 to \$32.72, and increase of \$7.24 or 28.4 percent. However, customers that consume less than the average could experience a significant reduction in their monthly bill as shown in the table.

Water Rate Survey

A water rate survey was conducted for neighboring communities to the City of Firebaugh. Chart 1 compares the estimated average Firebaugh single-family residential monthly water bill with those of neighboring communities at the same consumption of 11 thousand gallons (kgal) monthly. The rate survey includes rate schedules in effect November 2018. Water bills for Firebaugh are shown using the current rates and the proposed rates from Tables 21 and 22 for implementation April 2019. The chart indicates that with the water rate structure change, a Firebaugh single-family residential customer with a monthly consumption of 11 thousand gallons (kgal) will experience a bill that is in the upper mid-range of the communities listed.

Table 23
Comparison of Current Single-family Residential Monthly Bill with
Proposed Bill Using April 2019 Water Rate Structure and Rates

Description	Use (Kgal)	Current Bill			Proposed Bill			Change	Percent Change
		Service Charge	Volume Charge	Current Bill	Service Charge	Volume Charge	Proposed Bill		
	0	\$25.48	\$0.00	\$25.48	\$15.07	\$0.00	\$15.07	(\$10.41)	-40.9%
Very Low	3	\$25.48	\$0.00	\$25.48	\$15.07	\$4.41	\$19.48	(\$6.00)	-23.5%
Low	5	\$25.48	\$0.00	\$25.48	\$15.07	\$7.35	\$22.42	(\$3.06)	-12.0%
Median	8	\$25.48	\$0.00	\$25.48	\$15.07	\$12.13	\$27.20	\$1.72	6.8%
Average	11	\$25.48	\$0.00	\$25.48	\$15.07	\$17.65	\$32.72	\$7.24	28.4%
High	20	\$25.48	\$20.08	\$45.56	\$15.07	\$34.46	\$49.53	\$3.97	8.7%
Very High	30	\$25.48	\$47.02	\$72.50	\$15.07	\$53.36	\$68.43	(\$4.07)	-5.6%
	50	\$25.48	\$106.68	\$132.16	\$15.07	\$91.16	\$106.23	(\$25.93)	-19.6%

Chart 1
Survey of Single-family Residential Monthly Water Bills Using 11 kgal
For Rates in Effect November 2018



Note: Above table uses water rates in effect November 2018. The Firebaugh April 2019 bill is based on the rate structure and rates in Tables 21 and 22.

Wastewater Financial Planning

Financial planning for the wastewater enterprise includes identifying and projecting revenues and revenue requirements of the wastewater system for a five-year planning period. Estimates of revenue from various sources are compared with the projected revenue requirements. This comparison allows the review of the adequacy of existing revenue to meet annual obligations and provide the basis for revenue adjustments. New wastewater rates and charges are created to recover the City's annual operating and capital costs associated with the wastewater system.

This section discusses the current wastewater rates, user classifications, revenues and revenue requirements, planned capital improvement expenditures and financing sources, and proposed revenue adjustments.

Current Wastewater Fixed and Variable Charges

The current wastewater rates consist of fixed charges to all customers and a variable charge that applies to Toma-Tek's domestic wastewater. Multiunit residential customers are charged less than SFR, reflecting a lower discharge volume than SFR. Non-Residential customers are classified into one of many classifications and are charged a fixed charge. Toma-Tek's domestic wastewater volume is determined through installation of a wastewater meter in the sewer discharge line and a variable rate has been established. The current rates are presented in Table 24.

Table 24
Current Wastewater Fixed and Variable Charges

Classification	Current \$/month	Classification	Current \$/month
SF & Mobile Homes	\$49.95	Hotels/Motels	\$21.65
MF <= 650 SF	40.12	Business Offices	43.00
MF > 650 SF	49.95	Churches	49.95
Cabins/Cottages	33.48	Car Washes	81.34
Guest Homes	31.67	Bars/Taverns	49.95
Travel Trailers	33.48	Outside SF and MH	49.95
SF Seniors	44.95	Headstart (Day Care Center)	86.68
Restaurants Up to 25	49.95	St. Joseph (Day Care Center)	273.18
Restaurants 26-50	121.87	West Hills Child Development	49.95
Restaurants 51-75	157.80	Public Housing Authority	49.95
Barb/Dry Clean/Retail	40.02	West Hills Community College	49.95
Laundries	252.25	F/B Las Deltas School District	273.18
Grocery (full with grinders)	49.87	Market/Laundry	498.94
Self Service	49.95	Toma-Tek (Domestic)	670.00
Auto Repair Shops	\$98.75	Storage	\$49.95

Wastewater User Classifications

Number of Customers

The City currently classifies wastewater customers as Single-family Residential, various Multiunit categories, and into one of many Commercial classifications. Residential accounts (SFR, MF, cabins/cottages, and trailers and SFR senior) consist of about 88 percent of the total customers served by the wastewater system. Residential accounts and dwelling units are projected to grow at a rate of 0.50 percent annually following the assumptions listed in Table 1. Table 25 provides the historical and projected number of customers by classification.

Table 25
Historical and Projected Wastewater Customers by Classification

Customer Class	Historical	Projected				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Number of Accounts						
SF & Mobile Homes [1]	1,502	1,510	1,518	1,526	1,534	1,542
MF <= 650 SF [1]	17	17	17	17	17	17
MF > 650 SF [1]	31	31	31	31	31	31
Cabins/Cottages [1]	1	1	1	1	1	1
Travel Trailers [1]	3	3	3	3	3	3
Restaurants Up to 25	6	6	6	6	6	6
Restaurants 26-50	5	5	5	5	5	5
Restaurants 51-75	3	3	3	3	3	3
Barb/Dry Clean/Retail	26	26	26	26	26	26
Laundries	3	3	3	3	3	3
Grocery (full with grinders)	7	7	7	7	7	7
Self Service	1	1	1	1	1	1
Auto Repair Shops	8	8	8	8	8	8
Hotels/Motels	6	6	6	6	6	6
Business Offices	36	36	36	36	36	36
Churches	10	10	10	10	10	10
Car Washes	2	2	2	2	2	2
Bars/Taverns	1	1	1	1	1	1
Outside SF and MH	76	76	76	76	76	76
Headstart (Day Care Center)	2	2	2	2	2	2
St. Joseph (Day Care Center)	1	1	1	1	1	1
West Hills Child Development	1	1	1	1	1	1
Public Housing Authority	1	1	1	1	1	1
West Hills Community College	1	1	1	1	1	1
F/B Las Deltas School District	1	1	1	1	1	1
Market/Laundry	1	1	1	1	1	1
Toma-Tek (Domestic)	1	1	1	1	1	1
Storage	6	6	6	6	6	6
Septage	2	2	2	2	2	2
Total Accounts	1,761	1,769	1,777	1,785	1,793	1,801
Number of Dwelling Units						
SF & Mobile Homes [1]	1,502	1,510	1,518	1,526	1,534	1,542
MF <= 650 SF [1]	69	69	69	69	69	69
MF > 650 SF [1]	341	343	345	347	349	351
Cabins/Cottages [1]	58	58	58	58	58	58
Travel Trailers [1]	12	12	12	12	12	12
Total Dwelling Units	1,982	1,992	2,002	2,012	2,022	2,032

[1] Accounts are forecast to increase based on the assumed growth rate of 0.5% annually.

Wastewater Financial Plan

The financial plan provides the means of analyzing the revenue and revenue requirements of the wastewater system and its impact on reserves as well as the ability to fund on-going operation and maintenance expense and capital infrastructure requirements. Below is a discussion of the projection of revenue, operation and maintenance expenses, capital improvement needs of the wastewater system and its financing, debt service requirements, and revenue adjustments needed to maintain a sustainable wastewater enterprise.

Revenues

The City receives wastewater revenue from several sources. Operating revenue is received from rates and charges for wastewater service. Other revenue includes City property lease income, Toma-Tek Service and Repair Income, waste discharge fees, and miscellaneous income.

Table 26 presents the projected fixed charge revenue from current wastewater rates of the wastewater system. The revenue is projected by applying the current wastewater rates from Table 24 to the projected number of accounts and units in Table 25. Miscellaneous revenue is provided in Table 27.

Table 26
Projected Rate-based Wastewater Revenue Using Existing Rates

Description	Projected				
	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Water Service Revenues					
Fixed Charges [1]	\$1,417,673	\$1,423,667	\$1,429,661	\$1,435,655	\$1,441,649
Total Revenues From Current Rates	\$1,417,673	\$1,423,667	\$1,429,661	\$1,435,655	\$1,441,649

[1] FY 18-19 and forecast years' revenue calculated by multiplying current wastewater service rate by the number of projected customers and units.

Table 27
Projected Miscellaneous Wastewater Revenue

Description	Budget	Projected			
	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Lease of City Property	\$250	\$250	\$250	\$250	\$250
Miscellaneous Income	500	500	500	500	500
TomaTek Service and Repair	90,100	95,000	95,000	95,000	95,000
Waste Discharge Fees	3,500	3,500	3,500	3,500	3,500
Total Miscellaneous Revenues	\$94,350	\$99,250	\$99,250	\$99,250	\$99,250

Revenue Requirements

Revenue requirements of the wastewater system include operation and maintenance expense, annual capital replacement transfer, and debt service. Each of these items are discussed below.

Operation and Maintenance Expense

Operation and maintenance expenses (O&M) are an on-going obligation of the wastewater system and such costs are normally met from wastewater service revenue. O&M includes the cost to operate and maintain the wastewater collection system and treatment facilities. Costs also include technical services and other general and administrative expenses.

O&M has been projected recognizing the major expense categories of salaries, benefits, electric power expense, chemicals expense, and other expenses. Salaries and benefits expense are related to those personnel directly involved with providing wastewater service. Salaries expense is projected to increase by 4 percent annually while Benefit costs are projected to increase by 8 percent annually. Electric power expense is projected to increase at 4 percent annually while chemicals expense is projected to increase at 3 percent. All other O&M expense is projected to increase by 3 percent annually. Table 28 provides a summary of the wastewater O&M expenses for the Study period.

Table 28
Projected Wastewater Operation and Maintenance Expense

Description	Budget	Projected			
	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Maintenance Personnel Services	\$537,475	\$564,386	\$592,807	\$622,833	\$654,563
Maintenance and Operations	488,250	504,151	520,578	537,547	555,080
Capital	222,500	229,175	236,051	243,133	250,427
Total	\$1,248,225	\$1,297,712	\$1,349,436	\$1,403,513	\$1,460,070

Annual Capital Replacement Transfer

The City plans for replacements in the wastewater system that occur from time to time during the fiscal year. An annual amount is transferred from the operating fund to aid in funding these replacements. The annual amount is targeted to equal approximately 50 percent of annual depreciation expense which increases over time as fixed assets are booked by the City.

Existing Debt Service

The City has outstanding debt that includes the 2016A Sewer Revenue Refunding Bond obligations. The 2016A Sewer Revenue Refunding debt has annual debt service payments of about \$175,000 and will be retired in 2046.

Wastewater Capital Improvement Program

The City has developed a capital improvement program (CIP) spending plan that lists capital expenditures for FY 2018-19 through FY 2022-23. The capital projects are not specific in nature and reflect annual replacement that is expected to occur on an on-going basis. Expected replacement project expenditures total about \$80,000 annually. A transfer from the operating fund equal to 50 percent of depreciation expense is intended to fund replacements as required over the next five years.

Wastewater Financial Plan

A financial plan has been prepared for the wastewater utility that includes the revenues and revenue requirements that were identified for the wastewater system and is presented in Table 29. The plan incorporates specific financial planning goals to provide guidance to maintain the health of the wastewater utility on an on-going basis. The goals included the following.

- Generate positive levels of income in each year of the Study period
- Maintain the operating and capital reserves at or greater than target levels
- Maintain debt service coverage ratios at or greater than the minimum required
- Meet annual capital replacement spending from the annual replacement transfer and capital reserves

Proposed Revenue Adjustments

Analysis of the revenues and revenue requirements of the wastewater financial plan indicate that revenue increases are necessary. Revenue increases of 3.7 percent annually beginning April 1, 2019 are required to meet the financial planning criteria discussed above. Table 29 provides the wastewater financial plan with the proposed revenue increases.

Table 29
Wastewater Financial Plan

Description	Projected				
	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Proposed Revenue Increase (April 1)	3.7%				
Proposed Revenue Increase (January 1)		3.7%	3.7%	3.7%	3.7%
Revenue					
Rate-based Revenues, Existing Rates [1]	\$1,417,673	\$1,423,667	\$1,429,661	\$1,435,655	\$1,441,649
Total Additional Water Sales Revenue [2]	4,371	70,884	126,714	185,072	246,062
Miscellaneous Income	94,350	99,250	99,250	99,250	99,250
Interest Income	396	752	1,215	1,675	2,242
Total Revenue	\$1,516,790	\$1,594,553	\$1,656,840	\$1,721,652	\$1,789,203
Revenue Requirements					
O&M and Capital Outlay	\$1,248,225	\$1,297,712	\$1,349,436	\$1,403,513	\$1,460,070
Capital Replacement Transfer	70,402	68,160	86,000	89,000	91,000
2016A Sewer Revenue Refunding Bonds	178,563	177,163	180,338	178,088	175,838
Total Revenue Requirements	\$1,497,190	\$1,543,035	\$1,615,774	\$1,670,601	\$1,726,908
Net Funds Available	\$19,600	\$51,518	\$41,066	\$51,051	\$62,295
Available Reserves					
Beginning available reserves [3]	\$29,800	\$49,400	\$100,918	\$141,984	\$193,035
Additions (reductions)	19,600	51,518	41,066	51,051	62,295
Ending available reserves	\$49,400	\$100,918	\$141,984	\$193,035	\$255,330
Target Reserves [4]	\$624,000	\$649,000	\$675,000	\$702,000	\$730,000
Above (below) Target	(\$574,600)	(\$548,082)	(\$533,016)	(\$508,965)	(\$474,670)
Debt Service Coverage					
Net Revenues	\$268,565	\$296,841	\$307,404	\$318,139	\$329,133
Annual Debt Service	\$178,563	\$177,163	\$180,338	\$178,088	\$175,838
Coverage	150%	168%	170%	179%	187%

[1] Projected using the existing rates.

[2] Additional revenue from rate adjustments.

[3] The available FY 18-19 cash balance provided by the City.

[4] Target reserve estimated at 50% of operation and maintenance expense.

Wastewater Cost of Service

This section of the report discusses how the wastewater system's operating and capital costs are allocated for use in designing rates. Establishing rates in California requires that the agency responsible for imposing property-related fees create a nexus between the cost of providing service and the rates to be imposed.

Methodology

Methodology from the Water Environment Federation (WEF) is used in this Study to allocate wastewater costs in an appropriate manner. Similar to AWWA, WEF is an industry trade organization that provides guidance on operations, technical training, education, and management of wastewater utilities. General principles are provided to assist agencies with the design of wastewater rates and charges that are consistent with local requirements while also recognizing state laws and legal framework. For the approach used for this Study, the cost allocation components for wastewater service are Flow, BOD, SS, Capacity and Customer.

Wastewater Rate Design

The cost of service consists of O&M expense, annual capital replacement, and debt service. To establish the cost of providing service to the users of the wastewater system, costs need to first be allocated to wastewater parameters. These include wastewater Flow, BOD (bio-chemical oxygen demand), and SS (suspended solids), and Customer. Operating and capital costs are assigned to each parameter based on the functional operation and design of the facilities. The total cost to be recovered in FY 2018-19 from the users of the wastewater system is presented in Table 30.

Table 30
Allocation of Revenue Requirements to Cost Component

Description	FY 18-19	Flow	Strength		Customer
			BOD	SS	
Total Cost of Service	\$1,470,127	\$532,702	\$370,929	\$370,929	\$195,566

Costs of the wastewater system are allocated to each customer classification based on their contributed wastewater flow and strength. Because directly measuring wastewater volume is impractical for all but large industrial or wholesale customers, metered water consumption is used to estimate customers class contributed wastewater volume. The analysis is intended to account for residential lawn irrigation, car washing, and other uses where water is not discharged to the wastewater system. The wastewater contributed volume was estimated based on water consumption billing information from the City's billing system.

The wastewater rates are designed as fixed charges provided in Table 31. The SFR cost of service is divided by the number of units and billing periods to calculate the charge per dwelling unit. Fixed charges of other customer classes are calculated by dividing the cost of service by the respective class number of units. Day care centers and Schools wastewater charges are calculated per ADA. Septage disposal wastewater charges are calculated as

a volume charge in Table 31 but is designed to be fixed charges at various volume blocks of disposal similar to the current charges.

Table 31
Design of Wastewater Rates and Charges

Classification	Classification	Cost of Service	Number of Bills	Number of Units	Fixed Charge	Volume Charge	Charge Per ADA
					\$/mo	\$/1,000 gal	\$/ADA
SF & Mobile Homes		\$913,473	18,120	1,510	\$50.41 [1]		
MF <= 650 SF		34,561	828	69	\$41.74 [1]		
MF > 650 SF		207,496	4,116	343	\$50.41 [1]		
Cabins/Cottages		25,025	696	58	\$35.96 [1]		
Travel Trailers		5,176	144	12	\$35.96 [1]		
Restaurants Up to 25		4,307	72	1	\$59.82 [2]		
Restaurants 26-50		8,091	60	50	\$134.85 [2]		
Restaurants 51-75		6,421	36	3	\$178.36 [2]		
Barb/Dry Clean/Retail		14,325	312	12	\$45.91 [2]		
Laundries		9,864	36	65	\$274.00 [2]		
Grocery (full with grinders)		5,865	84	8	\$69.82 [2]		
Self Service		339	12	2	\$28.26 [2]		
Auto Repair Shops		11,277	96	8	\$117.47 [2]		
Hotels/Motels		17,514	72	68	\$21.46 [1]		
Business Offices		20,813	432	39	\$48.18 [2]		
Churches		5,775	120	4	\$48.13 [2]		
Car Washes		3,948	24	4	\$82.25 [1]		
Bars/Taverns		568	12	1	\$47.35 [2]		
Outside SF and MH		45,976	912	76	\$50.41 [1]		
Headstart (Day Care Center)		521	24	40	[3]		\$1.00
St. Joseph (Day Care Center)		240	12	20	[3]		\$1.00
West Hills Child Development		436	12	40	[3]		\$1.00
Public Housing Authority		70,173	1,392	116	\$50.41 [1]		
West Hills Community College		3,250	12	230	[3]		\$1.15
F/B Las Deltas School District		30,941	12	2,242	[3]		\$1.15
Market/Laundry		6,210	12	1	\$517.48 [2]		
Toma-Tek (Domestic)		1,455	12	1	\$121.23 [2]		
Storage		3,630	72	6	\$50.41 [2]		
Septage		12,458	24	2	[4]	\$131.14	
Total		\$1,470,127	27,768	5,031			

[1] Cost of Service divided by number of units divided by 12 billing periods.

[2] Cost of Service divided by number of bills.

[3] Cost of Service divided by number of Average Daily Attendance (ADA) divide by 12 billing periods..

[4] Cost of Service divided by water volume.

Proposed Wastewater Rates

Tables 32 and 33 presents the proposed wastewater charges for the wastewater system for the next five years. The table includes the current fixed charges, the fixed charges for April 1, 2019 developed in the tables above, and the proposed charges for implementation on January 1, 2020 and each January through January 1, 2023. Wastewater fixed charges beyond April 1, 2019 are increased by the percentages shown in the financial plan in Table 29.

Table 32
Proposed Wastewater Fixed Charges

Classification	Classification	Current Rate	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23
Fixed Charge (\$ per month)							
SF & Mobile Homes		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
MF <= 650 SF		\$40.12	\$41.74	\$43.29	\$44.90	\$46.57	\$48.30
MF > 650 SF		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
Cabins/Cottages		\$33.48	\$35.96	\$37.29	\$38.67	\$40.11	\$41.60
Travel Trailers		\$33.48	\$35.96	\$37.29	\$38.67	\$40.11	\$41.60
Restaurants Up to 25		\$49.95	\$59.82	\$62.04	\$64.34	\$66.73	\$69.20
Restaurants 26-50		\$121.87	\$134.85	\$139.84	\$145.02	\$150.39	\$155.96
Restaurants 51-75		\$157.80	\$178.36	\$184.96	\$191.81	\$198.91	\$206.27
Barb/Dry Clean/Retail		\$40.02	\$45.91	\$47.62	\$49.39	\$51.22	\$53.12
Laundries		\$252.25	\$274.00	\$284.14	\$294.66	\$305.57	\$316.88
Grocery (full with grinders)		\$49.87	\$69.82	\$72.41	\$75.09	\$77.87	\$80.76
Self Service		\$49.95	\$28.26	\$29.31	\$30.40	\$31.53	\$32.70
Auto Repair Shops		\$98.75	\$117.47	\$121.82	\$126.33	\$131.01	\$135.86
Hotels/Motels		\$21.65	\$21.46	\$22.26	\$23.09	\$23.95	\$24.84
Business Offices		\$43.00	\$48.18	\$49.97	\$51.82	\$53.74	\$55.73
Churches		\$49.95	\$48.13	\$49.91	\$51.76	\$53.68	\$55.67
Car Washes		\$81.34	\$82.25	\$85.30	\$88.46	\$91.74	\$95.14
Bars/Taverns		\$49.95	\$47.35	\$49.11	\$50.93	\$52.82	\$54.78
Outside SF and MH		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
Headstart (Day Care Center) [1]		\$86.68	\$1.00	\$1.04	\$1.08	\$1.12	\$1.17
St. Joseph (Day Care Center) [1]		\$273.18	\$1.00	\$1.04	\$1.08	\$1.12	\$1.17
West Hills Child Development [1]		\$49.95	\$1.00	\$1.04	\$1.08	\$1.12	\$1.17
Public Housing Authority		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32
West Hills Community College [1]		\$49.95	\$1.15	\$1.20	\$1.25	\$1.30	\$1.35
F/B Las Deltas School District [1]		\$273.18	\$1.15	\$1.20	\$1.25	\$1.30	\$1.35
Market/Laundry		\$498.94	\$517.48	\$536.63	\$556.49	\$577.09	\$598.45
Toma-Tek (Domestic)		\$670.00	\$121.23	\$125.72	\$130.38	\$135.21	\$140.22
Storage		\$49.95	\$50.41	\$52.28	\$54.22	\$56.23	\$58.32

[1] Charged by the Average Daily Attendance (ADA) beginning April 1, 2019.

Table 33
Proposed Septage Disposal Charges

Septage Disposal	Current	April 1, FY 18-19	January 1, FY 19-20	January 1, FY 20-21	January 1, FY 21-22	January 1, FY 22-23	
<u>From (gallons)</u>	<u>To (gallons)</u>						
0	1,000	\$30.89	\$62.41	\$64.72	\$67.12	\$69.61	\$72.19
1,000	1,499	\$40.29	\$127.98	\$132.72	\$137.64	\$142.74	\$148.03
1,500	1,999	\$49.69	\$193.55	\$200.72	\$208.15	\$215.86	\$223.85
2,000	2,499	\$59.09	\$259.12	\$268.71	\$278.66	\$288.98	\$299.68
2,500	2,999	\$68.49	\$324.69	\$336.71	\$349.17	\$362.09	\$375.49
3,000	3,499	\$77.89	\$390.26	\$404.71	\$419.69	\$435.22	\$451.33
3,500	3,999	\$87.29	\$455.83	\$472.70	\$490.19	\$508.33	\$527.14
4,000	4,499	\$96.69	\$521.40	\$540.70	\$560.71	\$581.46	\$602.98
4,500	4,999	\$106.69	\$586.97	\$608.70	\$631.23	\$654.59	\$678.81
5,000	5,499	\$115.49	\$652.54	\$676.69	\$701.73	\$727.70	\$754.63
5,500	5,999	\$124.89	\$718.12	\$744.69	\$772.25	\$800.83	\$830.47
6,000	6,499	\$134.29	\$783.69	\$812.69	\$842.76	\$873.95	\$906.29
Each 500 gal Over	6,499	\$9.40	\$65.57	\$68.00	\$70.52	\$73.13	\$75.84

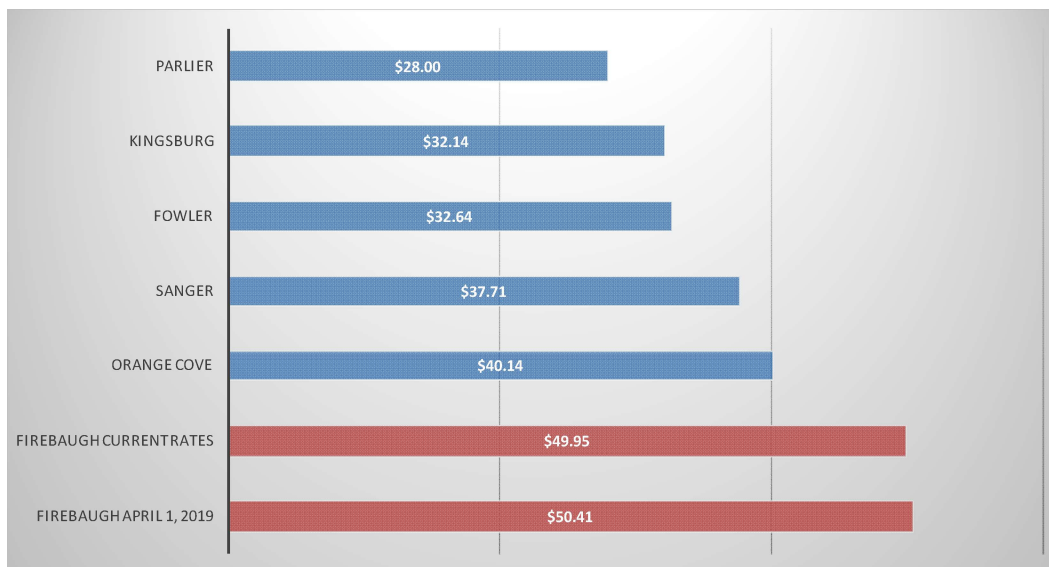
Wastewater Bill Impacts

Since the SFR wastewater charge is a fixed charge per month, the impact to wastewater bills can be determined from inspection of Table 32. For an SFR customer, the monthly wastewater bill will increase from \$49.95 to \$50.41, an increase of \$0.46 or 0.9 percent.

Wastewater Rate Survey

A wastewater rate survey was conducted for neighboring communities to the City. Chart 2 compares the City's current and proposed SFR monthly wastewater bill with those of neighboring communities. The chart indicates that with the proposed charges, an SFR customer will experience a bill that is in the upper range of the communities surveyed.

Chart 2
Survey of Single-family Residential Monthly Wastewater Bills
For Rates in Effect November 2018



Note: Above table uses wastewater rates in effect November 2018. Firebaugh April 2019 bill is based on the rate structure and rates in Table 33.

Appendix A

Technical Appendix

Distribution of Water Costs to Customer Classes is provided in Appendix A.

Table A-1
Distribution of Costs to Customer Classes FY 18-19

Description	Allocated Total Cost	Water Supply	Fixed Deivery	Peaking		Customer		Direct Fire Protection	Direct to Las Deltas
				Max Day	Max Hour	Meters/Serv	Customer		
Total Costs of Service	\$1,645,527	\$318,830	\$305,827	\$544,353	\$221,907	\$133,458	\$91,809	\$29,343	\$0
Units of Service		560,578	560,578	3,749	9,429	27,507	24,420	2,616	45,781
Unit Costs of Service		\$0.57	\$0.55	\$145.21	\$23.54	\$4.85	\$3.76	\$11.22	\$0.00
Units of Measure		1,000 gal	1,000 gal	1,000 gal/day	1,000 gal/day	Eq. Meters	Eq. Bills	Eq. Hyd	1,000 gal
Single-family Residential									
Units of Service		198,684	198,684	652	1,743	18,204	18,204	0	
Allocated Cost of Service	\$513,814	\$113,002	\$108,393	\$94,628	\$41,031	\$88,320	\$68,439	\$0	\$0
Multifamily Residential									
Units of Service		51,919	51,919	103	381	1,609	828	0	
Allocated Cost of Service	\$92,667	\$29,529	\$28,325	\$14,921	\$8,973	\$7,806	\$3,113	\$0	\$0
Commercial									
Units of Service		28,312	28,312	81	237	1,829	1,416	0	
Allocated Cost of Service	\$63,139	\$16,103	\$15,446	\$11,825	\$5,568	\$8,874	\$5,324	\$0	\$0
Industrial									
Units of Service		189,057	189,057	1,935	2,986	1,249	120	0	
Allocated Cost of Service	\$568,443	\$107,527	\$103,141	\$280,988	\$70,277	\$6,059	\$451	\$0	\$0
Public Authority/Schools									
Units of Service		16,017	16,017	54	143	914	180	0	
Allocated Cost of Service	\$34,179	\$9,110	\$8,738	\$7,858	\$3,363	\$4,433	\$677	\$0	\$0
Landscape									
Units of Service		6,578	6,578	40	75	271	240	0	
Allocated Cost of Service	\$17,117	\$3,741	\$3,589	\$5,805	\$1,766	\$1,314	\$902	\$0	\$0
Las Deltas Residential									
Units of Service		38,908	38,908	130	339	984	984	0	38,908
Allocated Cost of Service	\$78,734	\$22,129	\$21,227	\$18,936	\$7,969	\$4,774	\$3,699	\$0	\$0
Las Deltas Commercial									
Units of Service		6,873	6,873	23	60	228	228	0	6,873
Allocated Cost of Service	\$14,395	\$3,909	\$3,750	\$3,365	\$1,408	\$1,106	\$857	\$0	\$0
Public Housing Authority									
Units of Service		24,230	24,230	80	212	2,220	2,220	0	
Allocated Cost of Service	\$62,677	\$13,781	\$13,219	\$11,561	\$4,999	\$10,771	\$8,346	\$0	\$0
Public Fire Protection									
Units of Service		0	0	642	3,209	0	0	2,616	
Allocated Cost of Service	\$198,042	\$0	\$0	\$93,183	\$75,516	\$0	\$0	\$29,343	\$0
Private Fire Protection									
Units of Service		0	0	9	44	0	0	0	
Allocated Cost of Service	\$2,322	\$0	\$0	\$1,282	\$1,039	\$0	\$0	\$0	\$0
Total Costs of Service	\$1,645,527	\$318,830	\$305,827	\$544,353	\$221,907	\$133,458	\$91,809	\$29,343	\$0

Appendix B

Technical Appendix

Distribution of Wastewater Costs to Customer Classes is provided in Appendix B.

Table 32
Distribution of Wastewater Costs to Customer Classifications
FY 18-19

Description	Allocated Total Cost	Flow	Strength		Customer
			BOD	SS	
Total Cost of Service	\$1,470,127	\$532,703	\$370,929	\$370,929	\$195,566
Units of Service		222,395	376,192	271,250	27,768
Unit Costs of Service		\$2.40	\$0.9860	\$1.3675	\$7.04
Units of Measure		1,000 gal	lb	lb	Eq. Bills
SF & Mobile Homes					
Units of Service		139,368	232,616	162,831	18,120
Allocated Cost of Service	\$913,473	\$333,827	\$229,361	\$222,668	\$127,617
MF <= 650 SF					
Units of Service		5,095	8,504	5,953	828
Allocated Cost of Service	\$34,561	\$12,204	\$8,385	\$8,140	\$5,831
MF > 650 SF					
Units of Service		31,657	52,839	36,987	4,116
Allocated Cost of Service	\$207,496	\$75,829	\$52,100	\$50,579	\$28,988
Cabins/Cottages					
Units of Service		3,569	5,957	4,170	696
Allocated Cost of Service	\$25,025	\$8,548	\$5,873	\$5,702	\$4,902
Travel Trailers					
Units of Service		738	1,232	862	144
Allocated Cost of Service	\$5,176	\$1,768	\$1,215	\$1,179	\$1,014
Restaurants Up to 25					
Units of Service		218	1,815	1,089	72
Allocated Cost of Service	\$4,307	\$521	\$1,790	\$1,489	\$507
Restaurants 26-50					
Units of Service		439	3,663	2,198	60
Allocated Cost of Service	\$8,091	\$1,051	\$3,612	\$3,005	\$423
Restaurants 51-75					
Units of Service		353	2,946	1,768	36
Allocated Cost of Service	\$6,421	\$846	\$2,905	\$2,417	\$254
Barb/Dry Clean/Retail					
Units of Service		2,271	2,842	2,842	312
Allocated Cost of Service	\$14,325	\$5,439	\$2,802	\$3,887	\$2,197
Laundries					
Units of Service		895	3,173	3,173	36
Allocated Cost of Service	\$9,864	\$2,143	\$3,129	\$4,339	\$254
Grocery (full with grinders)					
Units of Service		291	1,944	1,944	84
Allocated Cost of Service	\$5,865	\$698	\$1,917	\$2,659	\$592
Self Service					
Units of Service		36	54	84	12
Allocated Cost of Service	\$339	\$86	\$53	\$115	\$85
Auto Repair Shops					
Units of Service		1,499	2,252	3,503	96
Allocated Cost of Service	\$11,277	\$3,591	\$2,220	\$4,790	\$676
Hotels/Motels					
Units of Service		2,693	6,966	2,697	72
Allocated Cost of Service	\$17,514	\$6,450	\$6,869	\$3,688	\$507
Business Offices					
Units of Service		4,059	4,404	2,710	432
Allocated Cost of Service	\$20,813	\$9,723	\$4,342	\$3,706	\$3,043
Churches					
Units of Service		923	1,155	1,155	120
Allocated Cost of Service	\$5,775	\$2,211	\$1,139	\$1,580	\$845
Car Washes					
Units of Service		885	148	1,107	24
Allocated Cost of Service	\$3,948	\$2,119	\$146	\$1,514	\$169

Table 32 (continued)
Distribution of Wastewater Costs to Customer Classifications
FY 18-19

Description	Allocated Total Cost	Flow	Strength		Customer
			BOD	SS	
Total Cost of Service	\$1,470,127	\$532,703	\$370,929	\$370,929	\$195,566
Units of Service		222,395	376,192	271,250	27,768
Unit Costs of Service		\$2.40	\$0.9860	\$1.3675	\$7.04
Units of Measure		1,000 gal	lb	lb	Eq. Bills
Bars/Taverns					
Units of Service		77	128	128	12
Allocated Cost of Service	\$568	\$183	\$126	\$175	\$85
Outside SF and MH					
Units of Service		7,014	11,708	8,195	912
Allocated Cost of Service	\$45,976	\$16,802	\$11,544	\$11,207	\$6,423
Headstart (Day Care Center)					
Units of Service		76	83	64	24
Allocated Cost of Service	\$521	\$183	\$82	\$87	\$169
St. Joseph (Day Care Center)					
Units of Service		34	37	28	12
Allocated Cost of Service	\$240	\$81	\$36	\$38	\$85
West Hills Child Development					
Units of Service		76	83	64	12
Allocated Cost of Service	\$436	\$183	\$82	\$87	\$85
Public Housing Authority					
Units of Service		10,706	17,869	12,509	1,392
Allocated Cost of Service	\$70,173	\$25,644	\$17,619	\$17,105	\$9,804
West Hills Community College					
Units of Service		687	746	574	12
Allocated Cost of Service	\$3,250	\$1,646	\$735	\$784	\$85
F/B Las Deltas School District					
Units of Service		6,699	7,268	5,591	12
Allocated Cost of Service	\$30,941	\$16,046	\$7,166	\$7,645	\$85
Market/Laundry					
Units of Service		1,147	1,436	1,436	12
Allocated Cost of Service	\$6,210	\$2,747	\$1,415	\$1,963	\$85
Toma-Tek (Domestic)					
Units of Service		243	406	284	12
Allocated Cost of Service	\$1,455	\$582	\$400	\$388	\$85
Storage					
Units of Service		554	924	647	72
Allocated Cost of Service	\$3,630	\$1,326	\$911	\$885	\$507
Septage					
Units of Service		95	2,997	6,660	24
Allocated Cost of Service	\$12,458	\$228	\$2,955	\$9,107	\$169
Total Costs of Service	\$1,470,127	\$532,703	\$370,929	\$370,929	\$195,566

RESOLUTION NO. 18 - 57

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
APPROVING AND AUTHORIZING EXECUTION OF THE PURCHASE AND SALE
AGREEMENT IN BEHALF OF THE CITY
(APN's 008-131-08T and 008-131-09T, 1325 O Street, Firebaugh, CA 93622).**

WHEREAS, the City of Firebaugh wishes to purchase certain real property located in Firebaugh, California, commonly referred to as Fresno County Assessor's Parcel Numbers 008-131-08T and 008-131-09T, 1325 O Street, Firebaugh, California 93622 ("the Property");

WHEREAS, the California Judicial Council ("Seller"), has offered to sell the Property to the City and the City Council desires to buy the Property from Seller; and

WHEREAS, the City desires to lease portions of the Property to the County of Fresno after the sale has been completed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Firebaugh approves and authorizes the City Manager, Benjamin Gallegos, to execute the Purchase and Sale Agreement on behalf of the City for purchase of the Property with the State of California, acting by and through the Judicial Council of California, a copy of which is attached and incorporated herein by this reference.

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 3rd day of December, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Felipe Perez, Mayor

Rita Lozano, Deputy City Clerk

Location: 1325 O Street
Firebaugh, CA 93622
APN: 008-131-08T and 008-
131-09T
County: Fresno

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made this ____ day of _____, 2018 ("Effective Date"), by and between the STATE OF CALIFORNIA, acting by and through the Judicial Council of California ("GRANTOR" or "JUDICIAL COUNCIL"), and the City of Firebaugh, a California municipal corporation ("GRANTEE" or "City"). The GRANTOR and GRANTEE may hereafter be individually referred to as a "PARTY" and collectively referred to as the "PARTIES."

RECITALS

- A. GRANTOR owns that certain real property located in the State of California, County of Fresno, City of Firebaugh, with a street address of 1325 O Street, Assessor's Parcel Number 008-131-08T and 008-131-09T, as more particularly described in Exhibit "A," attached and made a part hereto, and the building located thereon commonly known as the Firebaugh Courthouse ("Property") that has been used as a court facility by the Superior Court of California, County of Fresno.
- B. GRANTOR desires to sell the Property to GRANTEE and GRANTEE desires to purchase the Property from GRANTOR.
- C. Pursuant to the Trial Court Facilities Act of 2002 (Government Code section 70301 et seq.), the County of Fresno ("County") has a 41.98% equity interest in the Property.
- D. The County has waived its right under Government Code sections 70391 and 70396 to purchase GRANTOR's equity interest in, and title to, the Property, consents to the sale of the Property to the GRANTEE and will be entitled to 41.98% of the net proceeds from the sale of the Property.
- E. Pursuant to the general grant of authority under Government Code section 70391, and the specific grant of authority in Government Code section 70396, GRANTOR has the authority to sell the Property to GRANTEE and to deposit the GRANTOR's portion of the net proceeds from the sale of the Property (i.e. 58.02%) into the Immediate and Critical Needs Account as prescribed thereby.

NOW THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the PARTIES agree as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing provisions of the Recitals are true and correct and are incorporated into this Agreement by this reference.
2. Transaction Summary. For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, GRANTOR agrees to sell to GRANTEE, and GRANTEE agrees to purchase from GRANTOR, fee title interest in the Property under the terms and conditions of this Agreement.
3. Payment. GRANTEE agrees to pay Two Hundred Seventy Thousand Dollars (\$270,000) (the "Purchase Price"), which the PARTIES acknowledge represents the fair market value of the Property, into escrow with Chicago Title Company, at 725 South Figueroa Street, Suite 200, Los Angeles, CA 90017 (the "Escrow Holder") for the account of GRANTOR, pursuant and subject to the conditions outlined in this Agreement. GRANTEE shall deposit with the Escrow Holder sufficient funds to cover the Purchase Price plus GRANTEE's share of all escrow costs. The Purchase Price shall be due and payable at the Close of Escrow, subject to the conditions set forth in this Agreement.
4. Other Liens. The Escrow Holder may expend any or all monies payable under this Agreement to discharge any obligations which are liens upon the Property including, but not limited to, those arising from judgments, assessments, taxes, or debts secured by deeds of trust or mortgages and/or to defray any other incidental costs other than those specified in section 5 hereof to be borne by GRANTEE.
5. Escrow and Recording Fees. GRANTOR and GRANTEE shall each pay one-half of the escrow fees. GRANTOR and GRANTEE shall each be responsible to pay all costs for services specifically requested for their individual benefit. In addition, GRANTEE shall pay any costs related to premiums and endorsements with respect to title insurance for the Property. Any escrow and/or closing costs that GRANTOR pays through escrow, including without limitation those costs which Escrow Holder pays pursuant to section 4 of this Agreement and/or which GRANTOR pays pursuant to this section, shall be known as "Grantor Closing Costs."
6. Title and Establishment of Escrow. Title to said Property shall pass immediately upon Close of Escrow. Within fifteen (15) business days of the Effective Date of this Agreement, an escrow shall be opened with the Escrow Holder to consummate the purchase of the Property pursuant to this Agreement. GRANTOR shall open the escrow by delivering a fully executed counterpart of this Agreement to the Escrow Holder. In addition, the PARTIES agree to execute, deliver, and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder, or other instruments as may reasonably be required by Escrow Holder, in order to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not amend or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

7. “As Is” Purchase; Release.

- a. “As Is” Purchase. As a material inducement to GRANTOR’s execution and delivery of this Agreement and performance of its duties under this Agreement:

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, GRANTEE HAS AGREED TO ACCEPT POSSESSION OF THE PROPERTY UPON THE CLOSE OF ESCROW ON AN “AS IS” BASIS. GRANTOR AND GRANTEE AGREE THAT THE PROPERTY WILL BE SOLD “AS IS, WHERE IS, AND WITH ALL FAULTS” WITH NO RIGHT OF SET-OFF OR REDUCTION IN THE PURCHASE PRICE, AND, EXCEPT AS SET FORTH IN SECTION 11 OF THIS AGREEMENT, SUCH SALE WILL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE), AND GRANTOR DISCLAIMS AND RENOUNCES ANY SUCH REPRESENTATION OR WARRANTY.

- b. Release. Effective from and after the Close of Escrow, GRANTEE hereby waives, releases, acquits, and forever discharges GRANTOR and GRANTOR’s agents, directors, officers, and employees, to the maximum extent permitted by law, of and from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has or that may arise in the future because of or in any way growing out of or connected with this Agreement or the Property (including, without limitation, the condition of the Property), except matters arising from GRANTOR’s fraud or intentional misrepresentation.

GRANTEE expressly waives any rights or benefits available to it with respect to the foregoing release under any provision of applicable law which generally provides that a general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time the release is agreed to, which, if known to such creditor, would materially affect a settlement. GRANTEE, by the execution of this Agreement, acknowledges that it fully understands the foregoing, and with this understanding, nonetheless elects to and does assume all risk for losses known or unknown, described in this section 7, the provisions of which shall survive the Close of Escrow. Without limiting the generality of the foregoing:

THE UNDERSIGNED ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY LEGAL COUNSEL AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT

TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

THE UNDERSIGNED, BEING AWARE OF THIS CODE SECTION, HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE THEREUNDER AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

GRANTOR's Initials: _____

GRANTEE's Initials: _____

8. Close of Escrow. Escrow shall be scheduled to close on or before October 1, 2018 ("Close of Escrow"), subject to reasonable extension(s) upon mutual agreement by the PARTIES in writing. Upon the Close of Escrow, Escrow Holder shall:
- a. Record the following document:
 - i. The Grant Deed.
 - b. Distribute the net proceeds from the sale as follows:
 - i. 41.98% of the net proceeds shall be distributed to the County of Fresno.
 - ii. 58.02% of the net proceeds shall be distributed to the Judicial Council of California.

The "net proceeds" for the purposes of this section is the Purchase Price minus the Grantor Closing Costs.

9. GRANTOR's Conditions Precedent. GRANTOR's obligation to perform under this Agreement and the Close of Escrow shall be subject to and contingent upon satisfaction of each of the following conditions precedent prior to the Close of Escrow:
- a. The timely deposit by GRANTEE with Escrow Holder of all documents and funds required to be deposited by GRANTEE under this Agreement.
 - b. The timely deposit by GRANTEE of a lease executed by GRANTEE as lessor and the County as lessee for the County's lease of a portion of the Property from GRANTEE subsequent to the Close of Escrow.
 - c. The County shall have executed a document which terminates the existing Joint Occupancy Agreement for the Real Property, dated December 9, 2008, between GRANTOR and the County.

- d. Performance by GRANTEE of all obligations, covenants, and agreements on GRANTEE's part to be performed under this Agreement within the time provided in this Agreement for such performance.
10. GRANTEE's Conditions Precedent. GRANTEE's obligation to perform under this Agreement and the Close of Escrow shall be subject to and contingent upon satisfaction of each of the following conditions precedent prior to the Close of Escrow:
- a. The timely deposit by GRANTOR with Escrow Holder of all documents required to be deposited by GRANTOR under this Agreement.
 - b. Performance by GRANTOR of all obligations, covenants, and agreements on GRANTOR's part to be performed under this Agreement within the time provided in this Agreement for such performance.
11. GRANTOR's Representations and Warranties. In addition to any express agreements of GRANTOR contained herein, the following constitute representations and warranties of GRANTOR to GRANTEE:
- a. Representations Regarding GRANTOR's Authority.
 - (1) GRANTOR has full right, power, and legal authority to enter into this Agreement, sell, transfer and convey the Property to GRANTEE pursuant to this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby.
 - (2) The individuals executing this Agreement and the instruments referenced herein on behalf of GRANTOR have the legal power, right, and actual authority to bind GRANTOR to the terms and conditions hereof and thereof.
 - (3) This Agreement is, and all other instruments, documents and agreements required to be executed and delivered by GRANTOR in connection with this Agreement are and shall be, duly authorized, executed and delivered by GRANTOR and shall be valid, legally binding obligations of and enforceable against GRANTOR in accordance with their terms and do not, and as of the Close of Escrow will not, violate any provisions of any agreement, law, rule, regulation, or judicial order to which GRANTOR or the Property is subject.
 - b. Warranties and Representations Pertaining to Property and Legal Matters. To the best of GRANTOR's actual knowledge:

- (1) There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending against the Property or pending against GRANTOR which could affect GRANTOR's title to the Property.
- (2) GRANTOR has not entered into any other contracts for the sale of the Property with any third parties, nor do there exist any rights of first refusal, reversions, or options to purchase the Property or any portion of the Property therewith. GRANTOR is not party to nor subject or bound by any agreement, contract, or lease of any kind with any third parties relating to the Property which would impose an obligation on GRANTEE or otherwise affect marketability of title to the Property.
- (3) As of the Close of Escrow, there shall be no unrecorded leases, licenses or other agreements, including the Joint Occupancy Agreement for the Real Property, dated December 9, 2008, between GRANTOR and the County which would grant any person or entity the right to use or occupy any portion of the Property, including any improvements thereon, and no improvements on the Property that encroach upon the Property of a third party.
- (4) There are no and have been no uncured notices from any governmental agency notifying GRANTOR of any violations of law, ordinance, rule, or regulation occurring on the Property.

c. Warranties, Representations and Covenants Regarding Operation of the Property through Close of Escrow.

- (1) GRANTOR hereby agrees that GRANTOR will not, after the Effective Date of this Agreement, enter into new leases or any other obligations or agreements affecting the Property without the prior written consent of GRANTEE, which consent GRANTEE may withhold or grant in its absolute discretion.
- (2) GRANTOR will not subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the Effective Date of this Agreement that will not be eliminated prior to the Close of Escrow.
- (3) GRANTOR shall promptly notify GRANTEE of any event or circumstance that makes any representation or warranty of GRANTOR under this Agreement untrue or misleading, or of any covenant of GRANTOR under this Agreement incapable or less likely of being performed. It is understood that the GRANTOR's obligation to provide notice to GRANTEE shall in no way relieve GRANTOR of any liability for a breach by GRANTOR of any of its representations, warranties or covenants under this Agreement.

- d. Representations Pertaining to Additional Documents. There are no leases, subleases or tenancies with any third parties in effect pertaining to the Property.
- e. General Representation. No representation, warranty or statement of GRANTOR in this Agreement or in any document, certificate or schedule furnished or to be furnished to GRANTEE pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

GRANTOR's representations and warranties made in this Agreement shall be continuing and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade by GRANTOR in a separate certificate at that time. The truth and accuracy of GRANTOR's representations and warranties made herein shall constitute a condition for the benefit of GRANTEE to the Close of Escrow (as elsewhere provided herein) and shall not merge into the Close of Escrow or the recordation of the Grant Deed in the Official Records, and shall survive the Close of Escrow for a period of four years.

12. GRANTEE's Representations and Warranties. In addition to any express agreements of GRANTEE contained herein, the following constitute representations and warranties of GRANTEE to GRANTOR:

- a. Representations Regarding GRANTEE's Authority.
 - (1) GRANTEE has full power, right and legal authority to enter into this Agreement, buy, and accept the Property from GRANTOR pursuant to this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby.
 - (2) The individuals executing this Agreement and the instruments referenced herein on behalf of GRANTEE have the legal power, right, and actual authority to bind GRANTEE to the terms and conditions hereof and thereof.
 - (3) This Agreement is, and all other instruments, documents and agreements required to be executed and delivered by GRANTEE in connection with this Agreement are and shall be, duly authorized, executed and delivered by GRANTEE and shall be valid, legally binding obligations of and enforceable against GRANTEE in accordance with their terms and do not, and as of the Close of Escrow will not, violate any provisions of any agreement, law, rule, regulation, or judicial order to which GRANTEE is subject.
- b. General Representation. No representation, warranty or statement of GRANTEE in this Agreement or in any document, certificate or schedule furnished or to be furnished to GRANTOR pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary

to make the statements or facts contained therein not misleading.

GRANTEE's representations and warranties made in this Agreement shall be continuing and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade by GRANTEE in a separate certificate at that time. The truth and accuracy of GRANTEE's representations and warranties made herein shall constitute a condition for the benefit of GRANTOR to the Close of Escrow (as elsewhere provided herein) and shall not merge into the Close of Escrow or the recordation of the Grant Deed in the Official Records, and shall survive the Close of Escrow.

13. Additional Terms of Sale.

- a. Loss, Destruction and Condemnation. The PARTIES agree that the following provisions shall govern the risk of loss, destruction and condemnation:
 - (1) If, before GRANTOR transfers legal title or possession of the Property, all or a material part of the Property is destroyed without fault of GRANTEE, or is taken by eminent domain by any governmental entity, GRANTEE shall be entitled to terminate its obligations under this Agreement by written notice to GRANTOR and GRANTOR shall not have the right to enforce this Agreement against GRANTEE. If GRANTEE does not elect to terminate this Agreement, then GRANTEE shall, as applicable, either: (a) proceed to close as provided herein with the Purchase Price being reduced as applicable and, in the case of any eminent domain proceedings, by the total of any awards or other proceeds received or assured to be received by GRANTOR as a result of such proceedings, or (b) proceed to close as provided herein with an assignment as applicable by GRANTOR of all of the GRANTOR's rights, title and interest in and to all such eminent domain awards and proceeds. GRANTOR will promptly notify GRANTEE in writing of any eminent domain proceedings affecting the Property.
 - (2) If, after GRANTOR transfers legal title of the Property to GRANTEE at the Close of Escrow, all or any part of the Property is destroyed without fault of GRANTOR, or is taken by eminent domain by any governmental entity, GRANTEE is not relieved from GRANTEE's obligation under this Agreement to pay the full Purchase Price for the Property.
- b. Title Evidence. Any title evidence, which may be desired by GRANTEE, will be procured by GRANTEE. GRANTOR will cooperate with GRANTEE or its authorized agent in connection therewith, and will permit examination and inspection of any deeds, abstracts, affidavits of title, judgments in condemnation proceedings, or other documents relating to the title of the Property that GRANTOR may have available. It is understood that GRANTOR will not be obligated to pay for any expense incurred in connection with title matters or survey of the Property.

- c. Grant Deed. On the Close of Escrow, GRANTOR shall convey title to the Property to GRANTEE by recordation of the grant deed for the Property (“Grant Deed”) in substantially the same form as Exhibit “B,” attached and made a part hereto.
- d. Other Documents. As required and only if applicable, GRANTOR shall prepare or cause to be prepared the following documents:
- (1) One (1) Affidavit of Nonforeign Status (the “FIRPTA Affidavit”) for the Property;
 - (2) One (1) Real Estate Withholding Certificate (the “Form 593-C”) for the Property; and
 - (3) Such other documents as are deemed reasonably necessary by the PARTIES or Escrow Holder in order to consummate the transaction contemplated by this Agreement.
14. Notices. Any notice, tender, delivery, or other communication required pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered, mailed or sent by wire or other telegraphic communication in the manner provided in this Agreement, to the following persons:
- If to GRANTOR: Judicial Council of California
Facilities Services
455 Golden Gate Avenue, 8th floor
San Francisco, California 94102
Attention: Manager, Real Estate
- If to GRANTEE: City of Firebaugh
1133 P Street
Firebaugh, CA 93622
Attention: Ben Gallegos, City Manager
15. Assignment. GRANTOR shall have the right to assign its interest under this Agreement at any time prior to the Close of Escrow; provided, however, that any valid assignment shall not relieve GRANTOR from the performance of its duties and obligations, or of its representations and warranties, hereunder. Written notice of any intended assignment by GRANTOR shall be given to GRANTEE thirty (30) days prior to the effective date of assignment.
16. Calculation of Time. Under this Agreement, when the day upon which performance would otherwise be required or permitted is a Saturday, Sunday or holiday, then the time for performance shall be extended to the next day which is not a Saturday, Sunday or holiday. The term “holiday” shall mean all and only those State holidays specified in sections 6700 of the California Government Code.

17. Time of Essence. Time is of the essence of this Agreement and each and every provision hereof in which time is an element.
18. Waiver. No waiver of any provision of this Agreement shall be considered a waiver of any other provision or of any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by either PARTY of any remedy provided in this Agreement or at law shall not prevent the exercise by that PARTY of any other remedy provided in this Agreement or at law or in equity.
19. Entire Agreement. This Agreement and attached exhibits shall constitute the entire understanding and agreement of the PARTIES hereto regarding the purchase and sale of the Property, and all prior agreements, understandings, representations or negotiations, whether oral or written, are hereby superseded, terminated and canceled in their entirety and are of no further force or effect.
20. Amendments. This Agreement may not be modified or amended except in writing signed by the PARTIES.
21. Applicable Law. The PARTIES hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The PARTIES hereto expressly agree that this Agreement shall in all respects be governed and enforced by the laws of the State of California.
22. Severability. Nothing contained herein shall be construed as to require the commission of any act contrary to law and, wherever there is any conflict between any provision contained herein and any present statute, law, ordinance or regulation as to which the PARTIES have no legal right to contract, the latter shall prevail, but the affected provisions of this Agreement shall be limited only to the extent necessary to bring them within the requirements of such law.
23. Captions, Number and Gender. The captions appearing at the commencement of the paragraphs, subparagraphs and sections hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the article, paragraph or subparagraph at the head of which it appears, the article, paragraph or subparagraph and not the caption shall control and govern the construction of this Agreement. In this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so requires.
24. Survival. All terms and conditions in this Agreement, which represent continuing obligations and duties of the PARTIES, that have not been satisfied prior to Close of Escrow shall survive Close of Escrow and transfer of title to GRANTEE and shall continue to be binding on the respective obligated PARTY in accordance with their terms. All representations and warranties and statements made by the respective PARTIES contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Close of Escrow, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective PARTIES contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited

or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Close of Escrow, or, to the extent the context requires, beyond any termination of this Agreement.

25. Further Action. Each PARTY hereto shall, before the Close of Escrow, duly execute and deliver such papers, documents and instruments and perform all acts reasonably necessary or proper to carry out and effectuate the terms of this Agreement.
26. Facsimile Signatures. Facsimile signatures shall not be accepted unless prior agreement is obtained in writing by both PARTIES. If agreed that facsimile signatures are acceptable, they will be treated as original signatures; however, in no instance shall facsimile signatures be accepted on any document to be recorded. Such documents must bear original signatures.
27. Exhibits. The following Exhibits are attached to this Agreement and incorporated by reference herein.

Exhibit "A": Legal Description of Property

Exhibit "B": Form of Grant Deed with Certificate of Acceptance

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the PARTIES have executed this Agreement.

GRANTOR:

STATE OF CALIFORNIA, acting by and through the
Judicial Council of California

APPROVED AS TO FORM:
Judicial Council of California
Legal Services

By: _____
Name: Martin Hoshino
Title: Administrative Director
Date: _____

By: _____
Name: Charles R. Martel
Title: Supervising Attorney
Date: _____

GRANTEE:

CITY OF FIREBAUGH, a California municipal
corporation

By: _____
Name: Ben Gallegos
Title: City Manager
Date: _____

EXHIBIT “A”

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT “B”

FORM OF GRANT DEED

The Grant Deed shall be substantially similar to the attached form.

WHEN RECORDED MAIL TO:

City of Firebaugh
1133 P Street
Firebaugh, CA 93622
Attention: Ben Gallegos, City Manager

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES
PURSUANT TO GOVERNMENT CODE SECTION 27383 AND
DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND
TAXATION CODE SECTION 11922.

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

GRANT DEED	Agency: Judicial Council of California Property: Firebaugh Courthouse, No. 10-K1
APN: 008-131-08T and 008-131-09T; County of Fresno	
<p>For a valuable consideration, receipt of which is hereby acknowledged, the STATE OF CALIFORNIA, by and through the Judicial Council of California (“Grantor”), does hereby grant to the City of Firebaugh, all of Grantor’s right, title, and interest in and to the real property in the City of Firebaugh, County of Fresno, State of California, described in Exhibit “A” attached hereto, consisting of one (1) page, and by this reference made a part hereof.</p> <p>Subject to all covenants, restrictions, reservations, easements, rights, and rights-of-way of record, if any.</p>	
<p>APPROVED AS TO FORM: Judicial Council of California, Legal Services</p> <p>By: _____ Name: Charles R. Martel Title: Supervising Attorney Date: _____</p>	<p>GRANTOR:</p> <p>STATE OF CALIFORNIA, by and through the Judicial Council of California</p> <p>By: _____ Name: Martin Hoshino Title: Administrative Director Date: _____</p>

EXHIBIT "A"
TO GRANT DEED

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF
FRESNO, STATE OF CALIFORNIA, AND DESCRIBED AS FOLLOWS:

PARCEL 1: APN 008-131-08T

Lots 17, 18, 19, 20, 21 and 22 in Block 34 of the Town (now City) of Firebaugh, according to the map thereof recorded in Miscellaneous Map Book 1 Page 13, Fresno County Records.

PARCEL 2: APN 008-130-09T

The Northwesterly 62.00 feet of the following described property:

Lots 23, 24 and 25 in Block 34 of the Town (now City) of Firebaugh, according to the map thereof recorded in Miscellaneous Map Book 1 Page 13, Fresno County Records.

NOTE: The Southeasterly line of said Northwesterly 62.00 feet is parallel with the Northwesterly line of said Lot 23.

JUDICIAL COUNCIL NOTARY ACKNOWLEDGMENT

<p>A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.</p>

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

RESOLUTION NO. 18 - 58

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
APPROVING AND AUTHORIZING EXECUTION OF THE LEASE AGREEMENT IN
BEHALF OF THE CITY
(APN's 008-131-08T and 008-131-09T, 1325 O Street, Firebaugh, CA 93622).**

WHEREAS, the City of Firebaugh wishes to purchase certain real property located in Firebaugh, California commonly referred to as Fresno County Assessor's Parcel Numbers 008-131-08T and 008-131-09T, 1325 O Street, Firebaugh, California 93622 ("the Property");

WHEREAS, the California Judicial Council and the County of Fresno ("Seller"), have offered to sell the Property to the City and the City Council desires to buy the Property from Seller; and

WHEREAS, the City desires to lease portions of the Property to the County of Fresno after the sale has been completed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Firebaugh approves and authorizes the City Manager, Benjamin Gallegos, to execute the Lease Agreement on behalf of the City for the lease of portions of the Property with the County of Fresno, a copy of which is attached and incorporated herein by this reference.

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 3rd day of December, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Felipe Perez, Mayor

Rita Lozano, Deputy City Clerk

1 **LEASE AGREEMENT**

2 THIS LEASE AGREEMENT ("LEASE") is made and entered into this ____day of _____,
3 2018 ("Effective Date"), by and between the CITY OF FIREBAUGH, a municipal corporation, whose
4 address is 1133 P. St, Firebaugh, CA 93622 ("LESSOR"), and the COUNTY OF FRESNO, a political
5 subdivision of the State of California, whose address is 333 Pontiac Way, Clovis, CA 93612
6 ("LESSEE"). LESSOR and LESSEE shall also be referred to herein singularly as a "Party" and
7 collectively as "Parties."

8 1. LEASED PREMISES - LESSOR hereby leases to LESSEE approximately 3,443 square
9 feet of space for LESSEE's exclusive use ("LESSEE Exclusive-Use Area") at the former courthouse
10 located at 1325 O Street, Firebaugh, California 93622 ("Premises"), plus access to any areas of the
11 Premises that are used non-exclusively and in common by, or for the common benefit of, the LESSOR
12 or the LESSEE ("Common Area"). LESSOR'S Exclusive-Use Area ("LESSOR'S Exclusive-Use Area"),
13 which is attached as Exhibit B and incorporated by this reference, shall include all areas of the
14 Premises, excluding LESSEE'S Exclusive-Use Area and the Common Area. The Common Area shall
15 include:
16

- 17 (i) Hallways, stairwells, elevators, escalators, and restrooms that are not located in either
18 LESSOR'S Exclusive-Use Area or LESSEE'S Exclusive-Use Area;
19 (ii) Foundations, exterior walls, load-bearing walls, support beams, exterior windows, the
20 roof, and other structural parts of the Premises;
21 (iii) Driveways, walkways, and other means of access over and through the Premises,
22 (iv) The parking area; and
23 (v) The installed equipment and systems that serve the Premises generally or the Common
24 Area, including but not limited to the software program that is licensed to the LESSEE for
25 the operation of the building equipment ("Building Equipment"), not including the
26 equipment and systems that exclusively serve the Exclusive-Use Area of only one Party,
27 and the utilities services provided to the Premises, including water, sewer, electricity, and
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gas, except for telephone, cable, and internet, that do not exclusively serve only one Party's Exclusive-Use Area.

2. TERM The initial term of this LEASE shall be for three (3) years beginning on the Effective Date with a maximum end date of January 7, 2022 ("Initial Term") or any period shorter than three (3) years, upon written agreement of both LESSEE and LESSOR. This LEASE may be extended for two (2) additional consecutive twelve (12) month periods, or any period shorter than twelve (12) months, upon written approval of both LESSEE and LESSOR, no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. LESSEE's Director of Internal Services/Chief Information Officer or his or her designee, is authorized to execute such written approval on behalf of LESSEE.

3. USE – LESSEE shall use LESSEE'S Exclusive-Use Area at the Premises as office space for its Department of Agriculture and public library space for its Fresno County Public Library. LESSEE agrees to comply with all applicable laws, ordinances and regulations in connection with such use.

LESSOR covenants that: (i) the Premises are suitable for the intended use; (ii) the Premises are in compliance with all applicable laws, ordinances and regulations, including but not limited to safety regulations, health and building codes; and (iii) the Premises shall remain in such compliance throughout the term of this LEASE.

4. RIGHTS AND RESPONSIBILITIES

A. RIGHTS TO EXCLUSIVE-USE AREA AND COMMON AREA: LESSEE has the right to exclusively occupy and use its respective Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area, and LESSOR has the right to exclusively occupy and use its respective Exclusive-Use Area and a non-exclusive right to occupy and use the Common Area. Each Party's non-exclusive right to use the Common Area must: (i) not interfere with the other Party's use of its Exclusive-Use Area or the Common Area; (ii) not materially increase the other Party's obligations under this

LEASE; and (iii) comply with the Law. The Parties may from time to time agree on reasonable rules and regulations for their shared use of the Common Area.

B. RESPONSIBILITY FOR EXCLUSIVE-USE AREAS AND COMMON AREA

a. LESSEE EXCLUSIVE USE AREA: During the Term, LESSEE is responsible for the Operation of its Exclusive-Use Area at its sole cost and expense. LESSEE may make alterations and additions to its Exclusive-Use Area, as long as those alterations and additions do not unreasonably interfere with the LESSOR'S use of its Exclusive-Use Area or the Common Area.

b. COMMON AREA: LESSOR is responsible for the Operation of the Common Area and will provide and pay for utilities to the Premises under this LEASE, subject to LESSEE's obligations under Section 6 of this LEASE. LESSOR shall may make reasonable additions and alterations to the Common Area, the cost of which will be a shared cost, but LESSOR must first obtain the written consent of LESSEE to those additions or alterations, which consent will not be unreasonably withheld, conditioned, or delayed. If LESSEE neither consents, nor provides to LESSOR a reasonably-detailed description of its reasons for withholding its consent, within thirty (30) days after LESSEE's receipt of LESSOR's request for consent to the Common Area additions or alterations, LESSEE shall be deemed to have consented, and shall be responsible to pay its share of the costs and expenses incurred by LESSOR in making the Common Area alterations or additions described in LESSOR's request for consent.

c. CORRECTION OF DEFICIENCIES

(i) DEFICIENCY: Deficiency shall mean any condition of, damage to, or defect in the Common Area that: (i) threatens the life, health, or safety of persons occupying or visiting the Building, (ii) unreasonably interferes with, disrupts, or prevents either Party's

1 occupancy or use of the Premises, or its ability to conduct its
2 business operations in its Exclusive-Use Area, in an orderly, neat,
3 clean, safe, and functional environment, (iii) threatens the security
4 of the employees, guests, invitees, or patrons of either Party, (iv)
5 threatens to diminish the value of LESSEE's Exclusive-Use Area or
6 the Common Area, or threatens to damage or destroy the business
7 personal property of LESSEE located in the Building, (v) threatens
8 the preservation of LESSEE's files, records, and documents located
9 in the Building, or (vi) causes or exacerbates an unsafe, unsanitary,
10 unlawful, or non-functional condition affecting LESSEE's Exclusive-
11 Use Area or the Common Area.

12 (ii) Upon LESSOR's discovery of a Deficiency, LESSOR must either (i)
13 correct the Deficiency within ten (10) days, or (ii) if the Deficiency is
14 a Major Deficiency, send a written notice to LESSEE, within three
15 (3) business days, describing the Major Deficiency and providing an
16 estimate of the cost and time needed to correct the Major
17 Deficiency. A Major Deficiency shall mean any Deficiency that (i)
18 cannot, with reasonable diligence, be corrected within ten (10)
19 days, or (ii) as to which the estimated cost to correct will result in
20 excess costs in an amount greater than ten percent (10%) of the
21 estimated Shared Costs for the fiscal quarter in which the Parties
22 anticipate the correction will be performed, under Section 6(E) of
23 this LEASE.

24 (iii) LESSEE DEFICIENCY NOTICE: LESSEE may at any time, but is
25 not obligated to, send a written notice to LESSOR describing the
26 deficiency. Upon receipt of any LESSEE deficiency notice,
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LESSOR must either: (i) correct the deficiency by no later than ten (10) days after LESSOR's receipt of LESSEE's deficiency notice; or (ii) within three (3) business days after LESSOR'S receipt of LESSEE's deficiency notice, send a Major Deficiency Notice to LESSEE.

(iv) LESSEE'S RIGHT TO CORRECT: If LESSOR neither corrects the deficiency nor sends a Major Deficiency Notice within the time periods provided in Section 4(B)(c)(iii) then LESSEE may, but is not obligated to, without giving any notice or commencing any cure period under Section 10 of this LEASE, correct the deficiency in any reasonable manner under the circumstances. If LESSEE corrects the deficiency, LESSEE will be entitled to reimbursement from LESSOR, under Section 4(B)(c)(v), below, of LESSOR's share of the actual costs incurred by LESSEE to correct the deficiency, whether or not the deficiency is a Major Deficiency.

(v) CORRECTING PARTY: REIMBURSEMENT: The Party that actually performs the correction of a deficiency or a Major Deficiency is the "Correcting Party." The Correcting Party is entitled to be reimbursed by the non-correcting Party for the non-correcting Party's share of the actual costs that the Correcting Party incurs in correcting each deficiency, as follows:

1. If the Correcting Party is the LESSOR, the Correcting Party will be reimbursed for the non-correcting Party's share of the actual costs to correct the deficiency under Section 6 of this LEASE; provided, however, that in the event of a Major Deficiency, LESSOR will not be entitled to reimbursement from LESSEE of any amount greater

- 1 than LESSEE's share of the estimated costs to correct the Major
2 Deficiency that are set forth in the Correction Plan; or
- 3 2. If the Correcting Party is the LESSEE, LESSOR shall reimburse
4 LESSEE for LESSOR's share of the costs to correct the
5 deficiency within thirty (30) days after LESSEE has delivered to
6 LESSOR an invoice and reasonable supporting documents
7 evidencing the actual costs to correct the deficiency.
- 8 3. If the non-correcting Party does not reimburse the Correcting
9 Party for the non-correcting Party's share of the costs of
10 correction within thirty (30) days, the Correcting Party may offset
11 the non-correcting Party's share of the costs to correct the
12 Deficiency against any amounts that the Correcting Party owes to
13 the non-correcting Party under this LEASE.

14 (vi) MAJOR DEFICIENCY CORRECTION PLAN: If LESSOR at any
15 time sends LESSEE a Major Deficiency Notice, whether under
16 Section 4(B)(c)(ii) or Section 4(B)(c)(iii) of this LEASE, then within
17 ten (10) days after LESSEE's receipt of the Major Deficiency
18 Notice, the Parties will meet and confer, in good faith, in person or
19 by telephone, to determine a plan ("Correction Plan") for the
20 correction of the Major Deficiency, including the method, estimated
21 cost, and time period for the correction. If LESSOR does not
22 thereafter complete the correction of the Major Deficiency in
23 accordance with the Correction Plan, LESSEE may, but shall not be
24 obligated to, without giving any notice or commencing any cure
25 period under Section 10 of this LEASE, correct the Major Deficiency
26 in a manner consistent with the Correction Plan, and will thereafter
27 be the Correcting Party for purposes of reimbursement of
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LESSOR's share of the actual costs of correcting the Deficiency under Section 4(B)(c)(v)(2) of this LEASE.

(vii) NOT APPLICABLE TO EMERGENCIES: This Section 4(B)(c) shall not apply to any deficiency that: (i) arises from an emergency, and (ii) constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of LESSEE's Exclusive-Use Area or the Common Area, or (c) to the preservation of LESSEE's files, records, and documents located in the Premises. Rather, those deficiencies will be governed by Section 4(B)(d) of this LEASE. Any deficiency that arises from an emergency, but that does not constitute an imminent threat to the matters described above, will be governed by Section 4(B)(c).

d. EMERGENCIES: If any emergency occurs, the Parties must immediately notify one another of the emergency by telephone or any other means reasonable under the circumstances. LESSOR must immediately take steps to correct any deficiency that arises from the emergency and that constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of LESSEE's Exclusive-Use Area or the Common Area, or (c) to the preservation of LESSEE's files, records, and documents located in the Premises. If LESSOR does not immediately correct any such deficiency arising from an emergency, LESSEE may, but will not be obligated to, without giving any notice or commencing any cure period under Section 10 of this LEASE, correct that deficiency without making any further demand on LESSOR, and will notify LESSOR of the steps taken to correct the deficiency as soon as reasonably possible. If LESSEE corrects a deficiency arising from an emergency under this Section 4(B)(d), LESSEE is entitled to reimbursement from LESSOR of the

LESSOR's share of the actual cost of correcting the emergency, pursuant to Section 6 of this LEASE. Notwithstanding the foregoing, if a deficiency arises from an emergency, but the deficiency does not constitute an imminent threat to the matters described above, the correction of that deficiency will be governed by Section 4(B)(c) of this LEASE.

- C. PARKING - LESSOR is responsible for the operation of the parking area serving the Premises, which is part of the Common Area, under this LEASE, subject to LESSEE's obligation to reimburse its share of the Shared Costs of that operation under this LEASE. The Parties will use the Parking Area on a first-come, first-served basis.
- D. COOPERATION – The Parties will cooperate with one another, reasonably and in good faith, to ensure that each Party can peacefully enjoy, possess, use, and occupy its Exclusive-Use Area and the Common Area. LESSOR shall cooperate in good faith with, and ensure that LESSEE can exercise its rights and responsibilities under this LEASE. Subject to any reasonable rules and restrictions, each Party will allow the other Party to enter its Exclusive-Use Area for any reasonable purpose related to the terms of this LEASE or any other written agreement between the Parties. Either Party may delegate its responsibilities under this LEASE to the other Party or to a third party, but that delegation will not relieve the delegating Party from its obligations under this LEASE.
- E. OBTAINING EQUIPMENT PERMITS – LESSOR is responsible for maintaining and renewing all permits, certificates, and approvals required for lawful operation of any of the Building Equipment.
- F. INFORMATION TECHNOLOGY AND TELEPHONE EQUIPMENT – LESSEE shall be responsible for the operation of LESSEE'S information technology and telecommunications equipment ("Data Equipment") located on the Premises. LESSEE shall have the right to enter the LESSOR Exclusive-Use Area, at times reasonably-convenient to the LESSOR, for purposes of inspecting and operating the Data

Equipment, as and when necessary. LESSOR shall be responsible for the operation of LESSOR'S own Data Equipment.

5. RENT – LESSEE shall pay zero dollars (\$0) for rent throughout the term of this LEASE, but shall pay LESSOR for its proportionate share of the Shared Costs described in Section 6 of this LEASE.

6. SHARED COSTS

A. "Shared Costs" shall mean:

- (i) The proportional cost of owned or rented capital replacement items, improvements, equipment, and repairs in or benefitting the Common Area;
- (ii) the proportional cost of normal, day-to-day Operation of the Common Area, including the cost of utilities provided to the Common Area, and the cost of maintaining Equipment Permits (but excluding any late fees, interest, penalties, or other charges arising from LESSOR's failure to timely pay those costs or keep the Equipment Permits in effect;
- (iii) the cost of utilities provided to the Exclusive-Use Areas, if utilities are not separately metered for the Exclusive-Use Areas; and
- (iv) any Property Insurance Costs.

B. Shared Costs do not include:

- (i) any cost that is primarily for the purpose of benefitting a Party's Exclusive-Use Area;
- (ii) overtime charges or late fees related to any item that would otherwise be a Shared Cost, unless those overtime expenses or late fees are pre-approved by both Parties, or are necessary to remedy the imminent threat arising from an emergency. An emergency shall mean a sudden, unexpected event or circumstance, on or affecting the Common Area or the Premise, that results in a Deficiency. Deficiency shall mean any condition of, damage to, or defect in the Common Area that:
 - a. threatens the life, health, or safety of persons occupying or visiting the Premises;
 - b. unreasonably interferes with, disrupts, or prevents either Party's occupancy or use of

1 the Premises, or its ability to conduct its business operations in its Exclusive-Use
2 Area, in an orderly, neat, clean, safe, and functional environment;

3 c. threatens the security of the employees, guests, invitees, or patrons of either Party;

4 d. threatens to diminish the value of LESSEE's Exclusive-Use Area or the Common
5 Area, or threatens to damage or destroy the business personal property of LESSEE
6 located on the Premises;

7 e. threatens the preservation of LESSEE's files, records, and documents located on the
8 Premises; or

9 f. causes or exacerbates an unsafe, unsanitary, unlawful, or non-functional condition
10 affecting LESSEE's Exclusive-Use Area or the Common Area.

11
12 C. PAYMENT OF ESTIMATED SHARED COSTS: LESSOR shall make timely, direct payment of all
13 Shared Costs owed to third parties, and LESSEE shall be responsible to reimburse LESSOR for
14 its proportionate share of all Shared Costs under this Section 6. Within ninety (90) days after the
15 Effective Date, and within ninety (90) days prior to the first day of each fiscal year thereafter,
16 LESSOR shall deliver to LESSEE a statement itemizing the Estimated Shared Costs, which
17 LESSEE shall either comment on or approve within thirty (30) days. If LESSEE disapproves any
18 of the estimated Shared Costs in the estimate statement, the Parties will promptly meet and
19 discuss the reason for the disapproval. If the Parties reach agreement with respect to all
20 estimated Shared Costs, LESSOR shall, if necessary, revise the estimate statement, which both
21 Parties shall approve.

22 LESSEE is not obligated to make any payments of its share of the Shared Costs until it has
23 approved the estimate statement in writing. However, until LESSEE approves the estimate
24 statement, LESSEE shall pay its share of the Shared Costs based on the approved estimate
25 statement for the prior fiscal year. Upon approving the estimate statement, LESSEE shall pay its
26 proportionate share of the estimated Shared Costs based on the approved estimate statement,
27 plus all additional amounts owed by LESSEE for the period during which the Parties were in the
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process of reaching agreement as to the estimate statement. Payment of estimated Shared Costs shall be made in equal quarterly installments on the first day of each fiscal quarter, subject to this LEASE.

D. PAYMENT OF ACTUAL SHARED COSTS: Within thirty (30) days after the end of each fiscal quarter, LESSOR shall deliver to LESSEE a statement ("Quarterly Invoice") itemizing the actual Shared Costs incurred during the previous fiscal quarter. Within thirty (30) days after a written request by LESSEE, LESSOR shall also deliver to LESSEE copies of supporting documents for any of the actual Shared Costs shown on the Quarterly Invoice. If the actual Shared Costs are less than the estimated shared cost for the applicable fiscal quarter, LESSOR shall refund the amount overpaid to LESSEE within (30) days after LESSOR's delivery of the Quarterly Invoice, except that if LESSEE consents, LESSOR may retain the overpayment and offset it against future amounts owed by LESSEE under this LEASE.

If the actual Shared Costs are greater than the estimated Shared Costs for the applicable fiscal quarter, LESSEE shall pay such excess costs to LESSOR within thirty (30) days after its receipt of the quarterly invoice, except that (a) if the excess costs are more than ten (10) percent of the estimated Shared Costs for any fiscal quarter, or (b) if LESSEE has requested, but not received, supporting documents for any excess cost by ten (10) days prior to the date that payment is due, LESSEE shall continue to make payment of its share of the Shared Costs based on the estimate statement, or as otherwise agreed under Section 6(C) of this LEASE, but may defer payment of the excess costs (or, in the case of (b) above, the excess costs to which the supporting documents relate) for that fiscal quarter, until the Parties have met and reached an agreement regarding the amount of the excess costs, pursuant to Section 6(E) of this LEASE.

E. NOTICE OF ANTICIPATED EXCESS COSTS: Prior to incurring any Shared Costs that LESSOR reasonably believes shall result in an excess cost in an amount greater than ten percent (10%) of the estimated Shared Costs shown on the estimate statement, LESSOR must give written notice to LESSEE describing the amount and reason for that excess costs; except that (a) no

1 notice must be given to LESSEE if the excess costs shall be incurred to correct a Deficiency
2 arising from an emergency under Section 4(B)(d) of this LEASE, and (b) if the excess costs shall
3 be incurred in connection with the correction of a Deficiency under Section 4(B)(c) of this
4 LEASE, notice of the excess costs, and resolution of any issues related to the excess costs, will
5 be handled under Section 6(C), and this Section 6(E) shall not apply.

6 If LESSEE objects in writing to either (a) the excess costs within thirty (30) days after receiving
7 LESSOR's notice; or (b) any actual Shared Costs within thirty (30) days after receiving a
8 Quarterly Invoice, the Parties must meet and confer, in person or by telephone, within ten (10)
9 calendar days to resolve such objection.

10 If LESSEE does not respond to LESSOR's notice within thirty (30) days of receiving the notice,
11 LESSOR may proceed with expenditure of the excess cost in the amount and for the purpose
12 described in the notice, and LESSEE must pay its share of those excess costs. If LESSEE does
13 not object in writing to any actual Shared Costs within thirty (30) days after receiving the
14 Quarterly Invoice containing such objectionable information, then LESSEE must pay its share of
15 such actual Shared Costs.

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17 F. AUDIT RIGHTS – LESSEE may, at its sole cost and upon reasonable notice to LESSOR,
18 inspect LESSOR's books, records, and supporting documents concerning all actual Shared
19 Costs incurred for up to twelve (12) calendar months prior to the date of LESSEE's inspection.
20 The Parties shall cooperate reasonably with each other to ensure that the inspection is
21 performed promptly and without undue interference to either Party. If, after its inspection,
22 LESSEE disputes any actual Shared Costs for any of the immediately-preceding twelve (12)
23 calendar months, LESSEE may engage an independent certified public accountant, acceptable
24 to both Parties, to audit LESSOR's books and records to determine the amount of the actual
25 Shared Costs in dispute. The results of the audit will be binding on both Parties.
26 If the audit reveals that LESSEE overpaid or underpaid actual Shared Costs for a fiscal quarter,
27 the Parties will make the payments necessary to resolve that overpayment or underpayment
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1 within thirty (30) days following the completion of the audit. LESSEE must pay the entire cost of
2 the audit, unless the audit shows that LESSEE has overpaid actual Shared Costs by more than
3 five (5) percent in any fiscal year, in which case the Parties shall equally share the cost of such
4 audit. LESSEE's payment of Shared Costs shall not prevent LESSEE from disputing the
5 accuracy of any actual Shared Costs under this Section 6(F).

6 7. USE – LESSEE shall use the Premises as office space for its Department of Agriculture
7 and public library space for its Fresno County Public Library, or for any other County of Fresno
8 department, office, or agency. LESSEE agrees to comply with all applicable laws, ordinances and
9 regulations in connection with such use.

10 LESSOR covenants that: (i) the Premises are suitable for the intended use; (ii) the Premises are
11 in compliance with all applicable laws, ordinances and regulations, including but not limited to safety
12 regulations, health and building codes; and (iii) the Premises shall remain in such compliance
13 throughout the term of this LEASE.

14 8. MAINTENANCE AND REPAIRS – LESSOR shall be responsible for all exterior and
15 interior maintenance of the Common Area, including repair of air conditioning, heating units, plumbing
16 systems, electrical systems, interior light fixture ballasts and lamp replacement fire sprinkler system,
17 roof, painting, flooring, landscape, quarterly parking lot sweeping, and parking and other common area
18 maintenance at the Premises, including janitorial service and supplies. LESSOR is also responsible for
19 the structural condition of the building and agrees that the building will always be maintained in a
20 condition acceptable for the LESSEE'S intended use of the Premises.

21 In the event any Building systems such as air conditioning and heating units malfunction,
22 restroom fixtures are not draining properly, or water intrusion, leaks or other events that immediately
23 impact LESSEE's occupancy of the Premises occur, LESSOR shall respond within twenty-four (24)
24 hours after contact by LESSEE to initiate repairs and to restore the systems to full working order.
25 Structural issues, including but not limited to damaged doors, walls, roof, and windows shall be a
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1 priority, and shall be addressed as soon as possible. LESSOR covenants that the Premises shall be
2 maintained in substantially the same condition as that existing at the commencement of this LEASE.

3 9. COMPLIANCE WITH ALL LAWS – As to the Premises, LESSOR acknowledges public
4 funds are used for payments made by LESSEE under this LEASE and for “public works” projects.
5 Accordingly, in connection with this LEASE (including construction of any Tenant Improvements)
6 LESSOR shall comply with, and shall ensure compliance by all contractors and subcontractors with, all
7 applicable laws and regulations, including the payment of prevailing wages pursuant to Section 1770 et.
8 seq. of the Labor Code.

9 10. BREACH OF OBLIGATION TO MAINTAIN – Upon a Party’s breach or default of any
10 other provision of this LEASE, the Parties shall comply with the terms for notice of default and cure
11 period set forth in this Section 10 of this LEASE.

12
13 In the event LESSOR breaches its obligation to maintain the Premises as herein provided,
14 LESSEE shall give written notice to LESSOR within fifteen (15) days of its discovery of such breach.
15 LESSOR shall then have thirty (30) days from the date of such notice to cure its breach, provided,
16 however, that if the item of maintenance requires more than (30) days to complete, but does not relate
17 to a health and safety matter, then LESSOR will not be in default hereunder if within such thirty (30) day
18 period, LESSOR commences the work on such maintenance and diligently and in good faith prosecutes
19 the same to completion. Subject to the foregoing, if the period for cure expires and if, in LESSEE’S sole
20 determination, LESSOR has failed to cure, then LESSEE may, at its election:

- 21 (A) Terminate this LEASE by providing thirty (30) days prior written notice. In such case,
22 LESSEE shall have the right to demand LESSOR refund any monies which, in the judgment
23 of LESSEE, were paid to LESSOR pursuant to the LEASE but which were not earned by
24 LESSOR by consequence of its breach. Upon receipt of such demand, LESSOR shall
25 promptly refund all such monies; or
26 (B) Cure LESSOR’s breach and deduct the cost of such cure, together with reasonable
27 administrative costs, from LESSEE’s future rent obligation. LESSEE’S decision to cure
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LESSOR'S breach shall not constitute a waiver of any rights or remedies that LESSEE may have arising from this LEASE or by operation of law.

11. DESTRUCTION OR DAMAGE FROM CASUALTY - If the Premises are damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter a "Casualty"), then LESSOR shall either promptly and diligently repair the damage at its own cost, or terminate this LEASE as provided hereinbelow.

(A) LESSOR'S Election to Repair: If LESSOR elects to repair the Casualty damage to the Premises, then it shall within fifteen (15) days after the date of Casualty provide written notice (hereinafter "Notice of Repair") to LESSEE indicating the anticipated time required to repair. LESSOR shall bear the cost of all repairs to the Premises, including the cost to repair any alterations or fixtures installed or attached thereto by LESSEE. Such repairs shall restore the Premises to substantially the same condition as that existing at the commencement of this LEASE; such repairs shall also be made in compliance with all applicable state and local building codes. LESSOR shall not be liable to LESSEE for compensation for any loss of business, or any inconvenience or annoyance arising from repair of the Premises as a result of the Casualty except for rent reduction as hereinafter provided. LESSEE shall be responsible at its sole cost and expense for the replacement of its personal property.

(B) LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect to terminate this LEASE due to Casualty if: the Premises have been destroyed or substantially destroyed by said Casualty; and the estimated time to repair the Premises exceeds sixty (60) days from the date of the Casualty. LESSOR shall provide LESSEE with written notice of its election to terminate within thirty (30) days after the date of Casualty, specifying a termination date not less than thirty (30) days from the date of said notice.

(C) LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not receive a

1 Notice of Repair from LESSOR within fifteen (15) days after a Casualty, or if the
2 anticipated period of repair contained in the Notice of Repair exceeds sixty (60) days, then
3 LESSEE may elect to terminate this LEASE by providing thirty (30) days prior written notice
4 to LESSOR. In such case, LESSEE shall have the right to demand that LESSOR refund
5 any monies which, in the judgment of LESSEE, were paid to LESSOR pursuant to the
6 LEASE but which were not earned by LESSOR by consequence of the Casualty. Upon
7 receipt of such demand, LESSOR shall promptly refund all such monies.

8 12. TERMINATION NOTICES – In the case of LESSEE, the Director of Internal
9 Services/Chief Information Officer or his or her designee shall have the power to provide the termination
10 notices as described herein to terminate this LEASE.

11 13. NON-FUNDING TERMINATION - This LEASE is contingent on the allocation of funds by
12 a governmental agency. Should funds not be allocated, this LEASE may be terminated by the Board of
13 Supervisors at any time by giving at least thirty (30) days prior written notice to LESSOR.

14 14. COMPATIBLE USE AND HAZARDOUS SUBSTANCES

15 A. COMPATIBLE USE; HAZARDOUS SUBSTANCES

16 1. Compatible Use: Each Party must use, and must require that any occupant
17 use, its Exclusive-Use Area in a manner that is reasonably compatible with the
18 Parties' use of the Building on the Effective Date and that does not deteriorate
19 or diminish the other Party's ability to use its Exclusive-Use Area or the
20 Common Area effectively. LESSOR must ensure that any occupant that
21 occupies any of the Common Area uses its space in a manner reasonably
22 compatible with the Parties' use of the Premises.

23 2. Hazardous Substances: Neither Party shall store, use, treat, manufacture, or
24 sell, or allow any other person to store, use, treat, manufacture, or sell, any
25 Hazardous Substance on the Premises except in compliance with state and
26 federal codes, ordinances, laws, and regulations, to the extent binding on
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1 LESSEE and issued by a court or governmental entity with jurisdiction over
2 LESSEE ("Law"). Hazardous Substance shall mean any material or substance
3 regulated under any federal, state, or local laws, ordinances, regulations,
4 rules, statutes, and administrative actions or orders respecting hazardous or
5 toxic substances, waste, or materials, or industrial hygiene.

6 15. INDEMNIFICATION AND HOLD HARMLESS

7 A. INDEMNIFICATION OBLIGATION OF LESSOR – LESSOR shall and does
8 indemnify, defend, and hold harmless the LESSEE, with counsel reasonably
9 acceptable to LESSEE, from and against all liability, damages, attorney fees, costs,
10 expenses, or losses with respect to which either Party is obligated to indemnify the
11 other Party under this LEASE ("Indemnified Loss") arising from (1) all LESSOR
12 Claims, and (2) Liability Claims where and to the extent that the Liability Claims
13 result from the willful misconduct or negligent acts, errors, or omissions of LESSOR.
14 "Liability Claims" shall refer to any demand, complaint, cause of action, or claim
15 alleging (1) bodily injury to or death of third parties (excluding any employees of
16 LESSOR or LESSEE acting within the scope of their employment as such), in, on,
17 or about the Premises, and (2) damage to or destruction of personal property of a
18 third party (other than personal property of LESSEE or LESSOR), in, on, or about
19 the Premises, but excludes all LESSOR Claims. "LESSOR Claims" shall refer to
20 any demand, complaint, cause of action, or claim related to the period on and after
21 the Effective Date, alleging or arising from acts, errors, omissions, or negligence of
22 the LESSOR in the administration and performance of operations on the Premises
23 (e.g. allegations of civil rights violations made by a third party against an employee
24 of LESSOR).

25 B. INDEMNIFICATION OBLIGATION OF LESSEE – LESSEE shall and does
26 indemnify, defend, and hold harmless LESSOR, with counsel reasonably
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1 acceptable to LESSOR, from and against all Indemnified Loss arising from Liability
2 Claims where and to the extent that the Liability Claims result from the willful
3 misconduct or negligent acts, errors, or omissions of LESSEE.

4 C. INDEMNIFIED PARTY'S PARTICIPATION – The indemnifying Party must manage
5 and be entirely responsible to handle and resolve all Liability Claims for which it is
6 responsible under sections 15(A) or 15(B), as applicable. The indemnified Party
7 may elect, but is not required, to retain its own attorney, at the indemnified Party's
8 sole expense, to participate in the litigation, settlement negotiations, or other
9 dispute resolution procedures for any Liability Claim as to which it is the indemnified
10 Party. If the indemnified Party elects to retain its own attorney to participate in the
11 litigation, settlement negotiations, or other dispute resolution procedures for a
12 Liability Claim, the indemnifying Party will cooperate with the indemnified Party, and
13 the attorney retained by the indemnified Party.
14

15 D. EFFECT OF INDEMNIFICATION RIGHTS – The rights of a Party to be indemnified
16 under sections 15(A) or 15(B) of this LEASE cannot be deemed or construed to limit
17 or diminish the obligation of the indemnified Party to perform its duties at Law or
18 under any agreement between LESSEE and LESSOR. The indemnifying Party will
19 have no right of set off in respect of payment of any Indemnified Loss to the
20 indemnified party under this LEASE.

21 E. This Section 16 shall survive the termination of the LEASE.

22 16. INSURANCE - LESSOR shall, at its sole expense, maintain in full force and effect during
23 the term of this LEASE, the following policies of insurance:

- 24 a. Commercial General Liability Insurance with limits of not less than Two Million Dollars
25 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars
26 (\$4,000,000.00). This policy shall be issued on a per occurrence basis. LESSEE may
27 require specific coverages including completed operations, products liability, contractual
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1 liability, Explosion-Collapse-Underground, fire legal liability, or any other liability insurance
2 deemed necessary because of the nature of this contract.

3 b. Fire insurance and extended coverage. LESSOR shall add LESSEE as an additional insured
4 thereon.

5 Within (30) days from the date LESSOR executes this LEASE, LESSOR shall provide
6 certificates of insurance and endorsement as stated above for all of the foregoing policies, as required
7 herein, to the County of Fresno, Attn: ISD Lease Services, 333 Pontiac Way, Clovis, CA 93612, stating
8 that such insurance coverages have been obtained and are in full force; that the LESSEE, its officers,
9 agents and employees will not be responsible for any premiums on the policies; that for such worker's
10 compensation insurance the LESSOR has waived its right to recover from the LESSEE, its officers,
11 agents, and employees any amounts paid under the insurance policy and that waiver does not invalidate
12 the insurance policy; that such Commercial General Liability insurance names the LESSEE, its officers,
13 agents, and employees, individually and collectively, as additional insured, but only insofar as the
14 operations under this LEASE are concerned; that such coverage for additional insured shall apply as
15 primary insurance and any other insurance or self-insurance shall not be cancelled or changed without a
16 minimum of thirty (30) days advance written notice given to LESSEE.
17

18 In the event LESSOR fails to keep in effect at all times insurance coverage as herein provided,
19 the LESSEE may, in addition to other remedies it may have, suspend or terminate this Lease upon the
20 occurrence of such event.

21 All policies shall be with admitted insurers licensed to do business in the State of California.
22 Insurance purchased shall be purchased from companies possessing a current A.M Best Company
23 rating of A FSC VII or better.

24 LESSEE shall maintain during the term of this Lease the following policies of insurance, which
25 coverages may be provided in whole or in part through one or more programs of self-insurance:
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1 a. Commercial General liability insurance with limits of not less than Two Million Dollars
2 (\$2,000,000.00) per occurrence and an annual aggregate of not less than Four Million Dollars
3 (\$4,000,000.00). This policy shall be issued on an occurrence basis.

4 b. All-Risk property insurance covering the personal property of LESSEE. LESSEE shall
5 add LESSOR as an additional insured thereon.

6 Waiver of Subrogation: Neither LESSOR nor LESSEE shall be liable to the other or to any
7 insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage
8 to any building, structure, or other tangible property, or any resulting loss of income and benefits, even
9 though such loss or damage might have been occasioned by the negligence of such party, its agents or
10 employees, if any such loss or damage is covered by insurance benefitting the party suffering such loss
11 or damage or was required to be covered by insurance pursuant to this LEASE. LESSOR and LESSEE
12 shall require their respective insurance companies to include a standard waiver of subrogation
13 provisions in their respective policies.

14
15 17. SURRENDER OF POSSESSION - Upon the expiration or termination of this LEASE,
16 LESSEE will surrender the Premises to LESSOR in such condition as existing at the commencement of
17 this LEASE, less reasonable wear and tear, less the effects of any Casualty as herein defined, and less
18 the effects of any breach of LESSOR'S covenant to maintain. LESSEE will not be responsible for any
19 damage which LESSEE was not obligated hereunder to repair.

20 18. FIXTURES - LESSOR agrees that any equipment, fixtures or apparatus installed in or on
21 the Premises by LESSEE shall continue to be the property of LESSEE and may be removed by
22 LESSEE at any time. LESSEE shall repair any damage caused by the removal of fixtures. Any fixtures
23 not removed when LESSEE surrenders possession shall become the property of LESSOR.

24 19. RIGHT OF ENTRY - LESSOR, or its representative(s), after giving twenty-four (24) hours
25 written notice, shall have the right to enter the Premises at any time during business hours, or at such
26 other time as LESSEE deems appropriate, to make any alterations, repairs or improvements to the
27 Premises. The normal business of LESSEE or its invitees shall not be unnecessarily inconvenienced.
28

1 20. AMENDMENT - This LEASE may be amended in writing by the mutual consent of the
2 parties without in any way affecting the remainder.

3 21. ASSIGNMENT - Neither Party shall assign, transfer or sub-let this LEASE, or the rights or
4 duties under this LEASE, without the prior written consent of the other Party, which consent shall not be
5 unreasonably withheld or denied.

6 22. GOVERNING LAW - Venue for any action arising out of or relating to this LEASE shall be in
7 Fresno County, California. This LEASE shall be governed by the laws of the State of California.

8 23. NOTICES - All notices to be given under this LEASE by either Party to the other Party
9 shall be in writing, and given by any one of the following methods:

10 (i) Personal delivery; or

11 (ii) Sent by certified United States mail, first class postage prepaid, with return
12 receipt requested, to the applicable addresses as set forth below, in which case such notice shall be
13 deemed given three (3) business days if LESSOR is the recipient, or three (3) LESSEE business days if
14 LESSEE is the recipient, after such deposit and postmark with the United States Postal Service; or

15 (iii) Sent by a reputable overnight commercial courier, in which case such notice
16 shall be deemed given one (1) business day if LESSOR is the recipient, or one (1) LESSEE business day
17 if LESSEE is the recipient, after such deposit with that courier to the applicable addresses as set forth
18 below; or

19 The addresses of the Parties for purposes of giving receiving notices under this LEASE are as
20 follows:
21

22 LESSEE:

23 County of Fresno
24 Director of Internal Services/
25 Chief Information Officer
26 333 Pontiac Way
27 Clovis, CA 93612

22 LESSOR:

23 City of Firebaugh
24 Attn: Benjamin Gallegos, City Manager
25 1133 P. St
26 Firebaugh, CA 93622

27 Provided however, such notices may be given to such person or at such other place as either of
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1 the Parties may from time to time designate by giving written notice to the other Party, and provided further
2 however, in any event, notices of changes of address or termination of this LEASE shall not be effective
3 until actual delivery of such notice. Notices given hereunder shall not be amendments or modifications to
4 this LEASE.

5 24. INDEPENDENT CONTRACTOR – In performance of the work, duties and obligations
6 assumed by LESSOR under this LEASE, it is mutually understood and agreed that LESSOR, including any
7 and all of the LESSOR'S officers, agents, and employees will at all times be acting and performing as an
8 independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,
9 employee, joint venture, partner, or associate of the LESSEE. Furthermore, LESSEE shall have no right to
10 control or supervise or direct the manner or method by which LESSOR shall perform its work and function.
11 However, LESSEE shall retain the right to administer this LEASE so as to verify that LESSOR is performing
12 its obligations in accordance with the terms and conditions thereof.

13 LESSOR and LESSEE shall comply with all applicable provisions of law and the rules and
14 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

15 Because of its status as an independent contractor, LESSOR shall have absolutely no right to
16 employment rights and benefits available to LESSEE'S employees. LESSOR shall be solely liable and
17 responsible for providing to, or on behalf of its employees, all legally-required employee benefits. In
18 addition, LESSOR shall be solely responsible and save LESSEE harmless from all matters relating to
19 payment of LESSOR'S employees, including compliance with Social Security withholding and all other
20 regulations governing such matters. It is acknowledged that during the term of this LEASE, LESSOR may
21 be providing services to others unrelated to the LESSEE or to this LEASE.

22 25. MISCELLANEOUS

23 A. WAIVERS: No waiver of any provision of this LEASE shall be valid unless it is in
24 writing and signed by both Parties. Waiver by either Party at any time of a breach of
25 this LEASE cannot be deemed a waiver of or consent to a breach of the same or any
26 other provision of this LEASE. If a Party's action requires the consent or approval of
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1 the other Party, that consent or approval on one occasion cannot be deemed a
2 consent to or approval of that action on any later occasion or a consent or approval
3 of any other action.

4 B. FORCE MAJEURE: Neither Party is responsible for performance under this LEASE
5 to the extent performance is prevented, hindered, or delayed by fire, flood,
6 earthquake, elements of nature, acts of God, acts of war (declared and undeclared),
7 riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable.

8 C. ASSIGNMENT: Neither Party may assign this LEASE in whole or in part, whether by
9 operation of law or otherwise, to any other entity, agency, or person without the prior
10 written consent of the other Party. Even if that consent is given, any assignment made
11 in contravention of any law will be void and of no effect.

12 D. BINDING EFFECT: This LEASE binds the Parties and their permitted successors
13 and assigns.

14 E. INTEGRATION; AMENDMENTS: This LEASE contains the entire agreement of
15 the Parties with respect to the subject matter of this LEASE, and supersedes all
16 previous communications, representations, understandings, and agreements,
17 whether verbal, written, express, or implied, between the Parties. This LEASE
18 may be amended only by written agreement signed by both of the Parties.
19

20 26. DISCLOSURE OF SELF DEALING TRANSACTIONS – This provision is only applicable if the
21 LESSOR is operating as a corporation (a for-profit or non-profit corporation) or if during the term of this
22 LEASE, the LESSOR changes its status to operate as a corporation.

23 Members of LESSOR'S Board of Directors shall disclose any self-dealing
24 transactions that they are a party to while LESSOR is providing goods or performing services under this
25 LEASE. A self-dealing transaction shall mean a transaction to which the LESSOR is a party and in which
26 one or more of its directors has a material financial interest. Members of the Board of Directors shall
27 disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing
28

Transaction Disclosure Form Exhibit "A", attached hereto and by this reference incorporated herein, and submitting it to the County of Fresno prior to commencing with the self-dealing transaction or immediately thereafter.

27. AUTHORITY – Each individual executing this LEASE on behalf of each Party represents and warrants that such individual is duly authorized to execute and deliver this LEASE on behalf of that Party's governing board, and that this LEASE is binding upon that Party, in accordance with its terms.

26. ENTIRE LEASE - This LEASE constitutes the entire LEASE between the LESSOR and LESSEE with respect to the subject matter hereof and supersedes all prior leases, negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly referenced in this LEASE.

This LEASE shall be binding on and inure to the benefit of LESSOR'S heirs, successors and assigns. EXECUTED as of the date first herein written.

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1 IN WITNESS WHEREOF, the parties hereto have executed this LEASE as of the day and year first
2 hereinabove written.

3
4 **LESSOR**

LESSEE
COUNTY OF FRESNO

5
6 _____
(Authorized Signature)

_____ Sal Quintero, Chairperson of the Board of
Supervisors of the County of Fresno

7 Benjamin Gallegos, City Manager

8
9 133 P. St
Firebaugh, CA 93622

10 By:

11 **ATTEST:**
12 Bernice E. Seidel
13 Clerk of the Board of Supervisors
County of Fresno, State of California

14
15
16 **FOR ACCOUNTING USE ONLY:**

17 ORG No.: 4010
18 Account No.: 7345
Requisition No.:

Deputy

19 ORG No.: 75112011
20 Account No.: 7345
21 Requisition No.:

1 **EXHIBIT A**

2 **SELF-DEALING TRANSACTION DISCLOSURE FORM**

3 In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a
4 contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-
5 dealing transactions that they are a party to while providing goods, performing services, or both for the
6 County. A self-dealing transaction is defined below:

7
8 *"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more*
9 *of its directors has a material financial interest"*

10
11 The definition above will be utilized for purposes of completing this disclosure form.

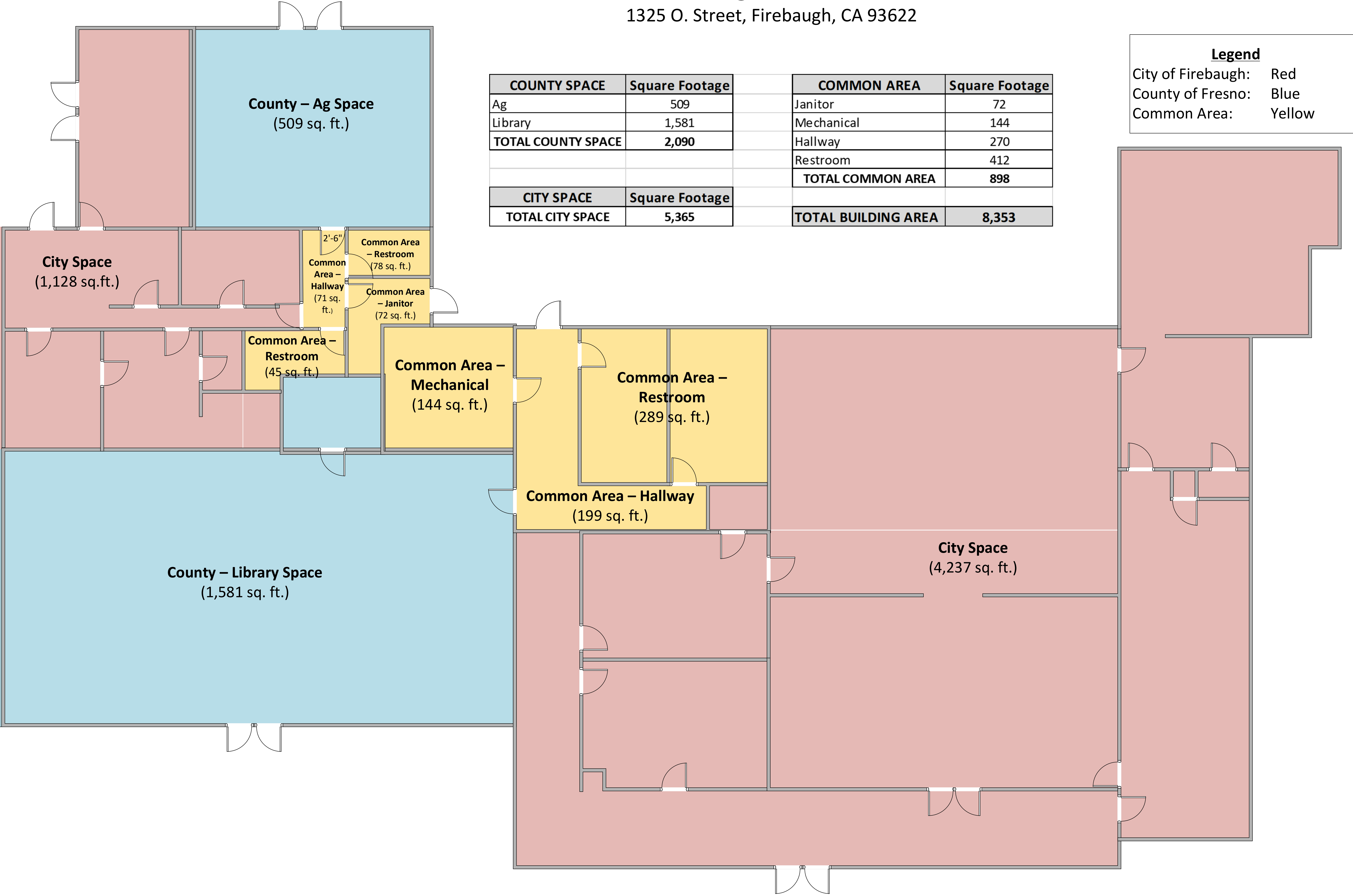
12
13 **INSTRUCTIONS**

- 14 (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- 15 (2) Enter the board member's company/agency name and address.
- 16 (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At
17 a minimum, include a description of the following:
- 18 a. The name of the agency/company with which the corporation has the transaction; and
- 19 b. The nature of the material financial interest in the Corporation's transaction that the
20 board member has.
- 21 (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of
22 the Corporations Code.
- 23 (5) Form must be signed by the board member that is involved in the self-dealing transaction described
24 in Sections (3) and (4).
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(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	

Exhibit B – Firebaugh Courthouse Floor Plan

1325 O. Street, Firebaugh, CA 93622



1 **LEASE AGREEMENT**

2 THIS LEASE AGREEMENT ("LEASE") is made and entered into this ____day of _____,
3 2018 ("Effective Date"), by and between the CITY OF FIREBAUGH, a municipal corporation, whose
4 address is 1133 P. St, Firebaugh, CA 93622 ("LESSOR"), and the COUNTY OF FRESNO, a political
5 subdivision of the State of California, whose address is 333 Pontiac Way, Clovis, CA 93612
6 ("LESSEE"). LESSOR and LESSEE shall also be referred to herein singularly as a "Party" and
7 collectively as "Parties."

8 1. LEASED PREMISES - LESSOR hereby leases to LESSEE approximately 3,443 square
9 feet of space for LESSEE's exclusive use ("LESSEE Exclusive-Use Area") at the former courthouse
10 located at 1325 O Street, Firebaugh, California 93622 ("Premises"), plus access to any areas of the
11 Premises that are used non-exclusively and in common by, or for the common benefit of, the LESSOR
12 or the LESSEE ("Common Area"). LESSOR'S Exclusive-Use Area ("LESSOR'S Exclusive-Use Area"),
13 which is attached as Exhibit B and incorporated by this reference, shall include all areas of the
14 Premises, excluding LESSEE'S Exclusive-Use Area and the Common Area. The Common Area shall
15 include:
16

- 17 (i) Hallways, stairwells, elevators, escalators, and restrooms that are not located in either
18 LESSOR'S Exclusive-Use Area or LESSEE'S Exclusive-Use Area;
19 (ii) Foundations, exterior walls, load-bearing walls, support beams, exterior windows, the
20 roof, and other structural parts of the Premises;
21 (iii) Driveways, walkways, and other means of access over and through the Premises,
22 (iv) The parking area; and
23 (v) The installed equipment and systems that serve the Premises generally or the Common
24 Area, including but not limited to the software program that is licensed to the LESSEE for
25 the operation of the building equipment ("Building Equipment"), not including the
26 equipment and systems that exclusively serve the Exclusive-Use Area of only one Party,
27 and the utilities services provided to the Premises, including water, sewer, electricity, and
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gas, except for telephone, cable, and internet, that do not exclusively serve only one Party's Exclusive-Use Area.

2. TERM The initial term of this LEASE shall be for three (3) years beginning on the Effective Date with a maximum end date of January 7, 2022 ("Initial Term") or any period shorter than three (3) years, upon written agreement of both LESSEE and LESSOR. This LEASE may be extended for two (2) additional consecutive twelve (12) month periods, or any period shorter than twelve (12) months, upon written approval of both LESSEE and LESSOR, no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. LESSEE's Director of Internal Services/Chief Information Officer or his or her designee, is authorized to execute such written approval on behalf of LESSEE.

3. USE – LESSEE shall use LESSEE'S Exclusive-Use Area at the Premises as office space for its Department of Agriculture and public library space for its Fresno County Public Library. LESSEE agrees to comply with all applicable laws, ordinances and regulations in connection with such use.

LESSOR covenants that: (i) the Premises are suitable for the intended use; (ii) the Premises are in compliance with all applicable laws, ordinances and regulations, including but not limited to safety regulations, health and building codes; and (iii) the Premises shall remain in such compliance throughout the term of this LEASE.

4. RIGHTS AND RESPONSIBILITIES

A. RIGHTS TO EXCLUSIVE-USE AREA AND COMMON AREA: LESSEE has the right to exclusively occupy and use its respective Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area, and LESSOR has the right to exclusively occupy and use its respective Exclusive-Use Area and a non-exclusive right to occupy and use the Common Area. Each Party's non-exclusive right to use the Common Area must: (i) not interfere with the other Party's use of its Exclusive-Use Area or the Common Area; (ii) not materially increase the other Party's obligations under this

LEASE; and (iii) comply with the Law. The Parties may from time to time agree on reasonable rules and regulations for their shared use of the Common Area.

B. RESPONSIBILITY FOR EXCLUSIVE-USE AREAS AND COMMON AREA

a. LESSEE EXCLUSIVE USE AREA: During the Term, LESSEE is responsible for the Operation of its Exclusive-Use Area at its sole cost and expense. LESSEE may make alterations and additions to its Exclusive-Use Area, as long as those alterations and additions do not unreasonably interfere with the LESSOR'S use of its Exclusive-Use Area or the Common Area.

b. COMMON AREA: LESSOR is responsible for the Operation of the Common Area and will provide and pay for utilities to the Premises under this LEASE, subject to LESSEE's obligations under Section 6 of this LEASE. LESSOR shall may make reasonable additions and alterations to the Common Area, the cost of which will be a shared cost, but LESSOR must first obtain the written consent of LESSEE to those additions or alterations, which consent will not be unreasonably withheld, conditioned, or delayed. If LESSEE neither consents, nor provides to LESSOR a reasonably-detailed description of its reasons for withholding its consent, within thirty (30) days after LESSEE's receipt of LESSOR's request for consent to the Common Area additions or alterations, LESSEE shall be deemed to have consented, and shall be responsible to pay its share of the costs and expenses incurred by LESSOR in making the Common Area alterations or additions described in LESSOR's request for consent.

c. CORRECTION OF DEFICIENCIES

(i) DEFICIENCY: Deficiency shall mean any condition of, damage to, or defect in the Common Area that: (i) threatens the life, health, or safety of persons occupying or visiting the Building, (ii) unreasonably interferes with, disrupts, or prevents either Party's

1 occupancy or use of the Premises, or its ability to conduct its
2 business operations in its Exclusive-Use Area, in an orderly, neat,
3 clean, safe, and functional environment, (iii) threatens the security
4 of the employees, guests, invitees, or patrons of either Party, (iv)
5 threatens to diminish the value of LESSEE's Exclusive-Use Area or
6 the Common Area, or threatens to damage or destroy the business
7 personal property of LESSEE located in the Building, (v) threatens
8 the preservation of LESSEE's files, records, and documents located
9 in the Building, or (vi) causes or exacerbates an unsafe, unsanitary,
10 unlawful, or non-functional condition affecting LESSEE's Exclusive-
11 Use Area or the Common Area.

12 (ii) Upon LESSOR's discovery of a Deficiency, LESSOR must either (i)
13 correct the Deficiency within ten (10) days, or (ii) if the Deficiency is
14 a Major Deficiency, send a written notice to LESSEE, within three
15 (3) business days, describing the Major Deficiency and providing an
16 estimate of the cost and time needed to correct the Major
17 Deficiency. A Major Deficiency shall mean any Deficiency that (i)
18 cannot, with reasonable diligence, be corrected within ten (10)
19 days, or (ii) as to which the estimated cost to correct will result in
20 excess costs in an amount greater than ten percent (10%) of the
21 estimated Shared Costs for the fiscal quarter in which the Parties
22 anticipate the correction will be performed, under Section 6(E) of
23 this LEASE.

24 (iii) LESSEE DEFICIENCY NOTICE: LESSEE may at any time, but is
25 not obligated to, send a written notice to LESSOR describing the
26 deficiency. Upon receipt of any LESSEE deficiency notice,
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LESSOR must either: (i) correct the deficiency by no later than ten (10) days after LESSOR's receipt of LESSEE's deficiency notice; or (ii) within three (3) business days after LESSOR'S receipt of LESSEE's deficiency notice, send a Major Deficiency Notice to LESSEE.

(iv) LESSEE'S RIGHT TO CORRECT: If LESSOR neither corrects the deficiency nor sends a Major Deficiency Notice within the time periods provided in Section 4(B)(c)(iii) then LESSEE may, but is not obligated to, without giving any notice or commencing any cure period under Section 10 of this LEASE, correct the deficiency in any reasonable manner under the circumstances. If LESSEE corrects the deficiency, LESSEE will be entitled to reimbursement from LESSOR, under Section 4(B)(c)(v), below, of LESSOR's share of the actual costs incurred by LESSEE to correct the deficiency, whether or not the deficiency is a Major Deficiency.

(v) CORRECTING PARTY: REIMBURSEMENT: The Party that actually performs the correction of a deficiency or a Major Deficiency is the "Correcting Party." The Correcting Party is entitled to be reimbursed by the non-correcting Party for the non-correcting Party's share of the actual costs that the Correcting Party incurs in correcting each deficiency, as follows:

1. If the Correcting Party is the LESSOR, the Correcting Party will be reimbursed for the non-correcting Party's share of the actual costs to correct the deficiency under Section 6 of this LEASE; provided, however, that in the event of a Major Deficiency, LESSOR will not be entitled to reimbursement from LESSEE of any amount greater

- 1 than LESSEE's share of the estimated costs to correct the Major
2 Deficiency that are set forth in the Correction Plan; or
- 3 2. If the Correcting Party is the LESSEE, LESSOR shall reimburse
4 LESSEE for LESSOR's share of the costs to correct the
5 deficiency within thirty (30) days after LESSEE has delivered to
6 LESSOR an invoice and reasonable supporting documents
7 evidencing the actual costs to correct the deficiency.
- 8 3. If the non-correcting Party does not reimburse the Correcting
9 Party for the non-correcting Party's share of the costs of
10 correction within thirty (30) days, the Correcting Party may offset
11 the non-correcting Party's share of the costs to correct the
12 Deficiency against any amounts that the Correcting Party owes to
13 the non-correcting Party under this LEASE.
- 14 (vi) MAJOR DEFICIENCY CORRECTION PLAN: If LESSOR at any
15 time sends LESSEE a Major Deficiency Notice, whether under
16 Section 4(B)(c)(ii) or Section 4(B)(c)(iii) of this LEASE, then within
17 ten (10) days after LESSEE's receipt of the Major Deficiency
18 Notice, the Parties will meet and confer, in good faith, in person or
19 by telephone, to determine a plan ("Correction Plan") for the
20 correction of the Major Deficiency, including the method, estimated
21 cost, and time period for the correction. If LESSOR does not
22 thereafter complete the correction of the Major Deficiency in
23 accordance with the Correction Plan, LESSEE may, but shall not be
24 obligated to, without giving any notice or commencing any cure
25 period under Section 10 of this LEASE, correct the Major Deficiency
26 in a manner consistent with the Correction Plan, and will thereafter
27 be the Correcting Party for purposes of reimbursement of
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LESSOR's share of the actual costs of correcting the Deficiency under Section 4(B)(c)(v)(2) of this LEASE.

(vii) NOT APPLICABLE TO EMERGENCIES: This Section 4(B)(c) shall not apply to any deficiency that: (i) arises from an emergency, and (ii) constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of LESSEE's Exclusive-Use Area or the Common Area, or (c) to the preservation of LESSEE's files, records, and documents located in the Premises. Rather, those deficiencies will be governed by Section 4(B)(d) of this LEASE. Any deficiency that arises from an emergency, but that does not constitute an imminent threat to the matters described above, will be governed by Section 4(B)(c).

d. EMERGENCIES: If any emergency occurs, the Parties must immediately notify one another of the emergency by telephone or any other means reasonable under the circumstances. LESSOR must immediately take steps to correct any deficiency that arises from the emergency and that constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of LESSEE's Exclusive-Use Area or the Common Area, or (c) to the preservation of LESSEE's files, records, and documents located in the Premises. If LESSOR does not immediately correct any such deficiency arising from an emergency, LESSEE may, but will not be obligated to, without giving any notice or commencing any cure period under Section 10 of this LEASE, correct that deficiency without making any further demand on LESSOR, and will notify LESSOR of the steps taken to correct the deficiency as soon as reasonably possible. If LESSEE corrects a deficiency arising from an emergency under this Section 4(B)(d), LESSEE is entitled to reimbursement from LESSOR of the

LESSOR's share of the actual cost of correcting the emergency, pursuant to Section 6 of this LEASE. Notwithstanding the foregoing, if a deficiency arises from an emergency, but the deficiency does not constitute an imminent threat to the matters described above, the correction of that deficiency will be governed by Section 4(B)(c) of this LEASE.

- C. PARKING - LESSOR is responsible for the operation of the parking area serving the Premises, which is part of the Common Area, under this LEASE, subject to LESSEE's obligation to reimburse its share of the Shared Costs of that operation under this LEASE. The Parties will use the Parking Area on a first-come, first-served basis.
- D. COOPERATION – The Parties will cooperate with one another, reasonably and in good faith, to ensure that each Party can peacefully enjoy, possess, use, and occupy its Exclusive-Use Area and the Common Area. LESSOR shall cooperate in good faith with, and ensure that LESSEE can exercise its rights and responsibilities under this LEASE. Subject to any reasonable rules and restrictions, each Party will allow the other Party to enter its Exclusive-Use Area for any reasonable purpose related to the terms of this LEASE or any other written agreement between the Parties. Either Party may delegate its responsibilities under this LEASE to the other Party or to a third party, but that delegation will not relieve the delegating Party from its obligations under this LEASE.
- E. OBTAINING EQUIPMENT PERMITS – LESSOR is responsible for maintaining and renewing all permits, certificates, and approvals required for lawful operation of any of the Building Equipment.
- F. INFORMATION TECHNOLOGY AND TELEPHONE EQUIPMENT – LESSEE shall be responsible for the operation of LESSEE'S information technology and telecommunications equipment ("Data Equipment") located on the Premises. LESSEE shall have the right to enter the LESSOR Exclusive-Use Area, at times reasonably-convenient to the LESSOR, for purposes of inspecting and operating the Data

Equipment, as and when necessary. LESSOR shall be responsible for the operation of LESSOR'S own Data Equipment.

5. RENT – LESSEE shall pay zero dollars (\$0) for rent throughout the term of this LEASE, but shall pay LESSOR for its proportionate share of the Shared Costs described in Section 6 of this LEASE.

6. SHARED COSTS

A. "Shared Costs" shall mean:

- (i) The proportional cost of owned or rented capital replacement items, improvements, equipment, and repairs in or benefitting the Common Area;
- (ii) the proportional cost of normal, day-to-day Operation of the Common Area, including the cost of utilities provided to the Common Area, and the cost of maintaining Equipment Permits (but excluding any late fees, interest, penalties, or other charges arising from LESSOR's failure to timely pay those costs or keep the Equipment Permits in effect;
- (iii) the cost of utilities provided to the Exclusive-Use Areas, if utilities are not separately metered for the Exclusive-Use Areas; and
- (iv) any Property Insurance Costs.

B. Shared Costs do not include:

- (i) any cost that is primarily for the purpose of benefitting a Party's Exclusive-Use Area;
- (ii) overtime charges or late fees related to any item that would otherwise be a Shared Cost, unless those overtime expenses or late fees are pre-approved by both Parties, or are necessary to remedy the imminent threat arising from an emergency. An emergency shall mean a sudden, unexpected event or circumstance, on or affecting the Common Area or the Premise, that results in a Deficiency. Deficiency shall mean any condition of, damage to, or defect in the Common Area that:
 - a. threatens the life, health, or safety of persons occupying or visiting the Premises;
 - b. unreasonably interferes with, disrupts, or prevents either Party's occupancy or use of

1 the Premises, or its ability to conduct its business operations in its Exclusive-Use
2 Area, in an orderly, neat, clean, safe, and functional environment;

3 c. threatens the security of the employees, guests, invitees, or patrons of either Party;

4 d. threatens to diminish the value of LESSEE's Exclusive-Use Area or the Common
5 Area, or threatens to damage or destroy the business personal property of LESSEE
6 located on the Premises;

7 e. threatens the preservation of LESSEE's files, records, and documents located on the
8 Premises; or

9 f. causes or exacerbates an unsafe, unsanitary, unlawful, or non-functional condition
10 affecting LESSEE's Exclusive-Use Area or the Common Area.

11
12 C. PAYMENT OF ESTIMATED SHARED COSTS: LESSOR shall make timely, direct payment of all
13 Shared Costs owed to third parties, and LESSEE shall be responsible to reimburse LESSOR for
14 its proportionate share of all Shared Costs under this Section 6. Within ninety (90) days after the
15 Effective Date, and within ninety (90) days prior to the first day of each fiscal year thereafter,
16 LESSOR shall deliver to LESSEE a statement itemizing the Estimated Shared Costs, which
17 LESSEE shall either comment on or approve within thirty (30) days. If LESSEE disapproves any
18 of the estimated Shared Costs in the estimate statement, the Parties will promptly meet and
19 discuss the reason for the disapproval. If the Parties reach agreement with respect to all
20 estimated Shared Costs, LESSOR shall, if necessary, revise the estimate statement, which both
21 Parties shall approve.

22 LESSEE is not obligated to make any payments of its share of the Shared Costs until it has
23 approved the estimate statement in writing. However, until LESSEE approves the estimate
24 statement, LESSEE shall pay its share of the Shared Costs based on the approved estimate
25 statement for the prior fiscal year. Upon approving the estimate statement, LESSEE shall pay its
26 proportionate share of the estimated Shared Costs based on the approved estimate statement,
27 plus all additional amounts owed by LESSEE for the period during which the Parties were in the
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process of reaching agreement as to the estimate statement. Payment of estimated Shared Costs shall be made in equal quarterly installments on the first day of each fiscal quarter, subject to this LEASE.

D. PAYMENT OF ACTUAL SHARED COSTS: Within thirty (30) days after the end of each fiscal quarter, LESSOR shall deliver to LESSEE a statement ("Quarterly Invoice") itemizing the actual Shared Costs incurred during the previous fiscal quarter. Within thirty (30) days after a written request by LESSEE, LESSOR shall also deliver to LESSEE copies of supporting documents for any of the actual Shared Costs shown on the Quarterly Invoice. If the actual Shared Costs are less than the estimated shared cost for the applicable fiscal quarter, LESSOR shall refund the amount overpaid to LESSEE within (30) days after LESSOR's delivery of the Quarterly Invoice, except that if LESSEE consents, LESSOR may retain the overpayment and offset it against future amounts owed by LESSEE under this LEASE.

If the actual Shared Costs are greater than the estimated Shared Costs for the applicable fiscal quarter, LESSEE shall pay such excess costs to LESSOR within thirty (30) days after its receipt of the quarterly invoice, except that (a) if the excess costs are more than ten (10) percent of the estimated Shared Costs for any fiscal quarter, or (b) if LESSEE has requested, but not received, supporting documents for any excess cost by ten (10) days prior to the date that payment is due, LESSEE shall continue to make payment of its share of the Shared Costs based on the estimate statement, or as otherwise agreed under Section 6(C) of this LEASE, but may defer payment of the excess costs (or, in the case of (b) above, the excess costs to which the supporting documents relate) for that fiscal quarter, until the Parties have met and reached an agreement regarding the amount of the excess costs, pursuant to Section 6(E) of this LEASE.

E. NOTICE OF ANTICIPATED EXCESS COSTS: Prior to incurring any Shared Costs that LESSOR reasonably believes shall result in an excess cost in an amount greater than ten percent (10%) of the estimated Shared Costs shown on the estimate statement, LESSOR must give written notice to LESSEE describing the amount and reason for that excess costs; except that (a) no

1 notice must be given to LESSEE if the excess costs shall be incurred to correct a Deficiency
2 arising from an emergency under Section 4(B)(d) of this LEASE, and (b) if the excess costs shall
3 be incurred in connection with the correction of a Deficiency under Section 4(B)(c) of this
4 LEASE, notice of the excess costs, and resolution of any issues related to the excess costs, will
5 be handled under Section 6(C), and this Section 6(E) shall not apply.

6 If LESSEE objects in writing to either (a) the excess costs within thirty (30) days after receiving
7 LESSOR's notice; or (b) any actual Shared Costs within thirty (30) days after receiving a
8 Quarterly Invoice, the Parties must meet and confer, in person or by telephone, within ten (10)
9 calendar days to resolve such objection.

10 If LESSEE does not respond to LESSOR's notice within thirty (30) days of receiving the notice,
11 LESSOR may proceed with expenditure of the excess cost in the amount and for the purpose
12 described in the notice, and LESSEE must pay its share of those excess costs. If LESSEE does
13 not object in writing to any actual Shared Costs within thirty (30) days after receiving the
14 Quarterly Invoice containing such objectionable information, then LESSEE must pay its share of
15 such actual Shared Costs.

16
17 F. AUDIT RIGHTS – LESSEE may, at its sole cost and upon reasonable notice to LESSOR,
18 inspect LESSOR's books, records, and supporting documents concerning all actual Shared
19 Costs incurred for up to twelve (12) calendar months prior to the date of LESSEE's inspection.
20 The Parties shall cooperate reasonably with each other to ensure that the inspection is
21 performed promptly and without undue interference to either Party. If, after its inspection,
22 LESSEE disputes any actual Shared Costs for any of the immediately-preceding twelve (12)
23 calendar months, LESSEE may engage an independent certified public accountant, acceptable
24 to both Parties, to audit LESSOR's books and records to determine the amount of the actual
25 Shared Costs in dispute. The results of the audit will be binding on both Parties.
26 If the audit reveals that LESSEE overpaid or underpaid actual Shared Costs for a fiscal quarter,
27 the Parties will make the payments necessary to resolve that overpayment or underpayment
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1 within thirty (30) days following the completion of the audit. LESSEE must pay the entire cost of
2 the audit, unless the audit shows that LESSEE has overpaid actual Shared Costs by more than
3 five (5) percent in any fiscal year, in which case the Parties shall equally share the cost of such
4 audit. LESSEE's payment of Shared Costs shall not prevent LESSEE from disputing the
5 accuracy of any actual Shared Costs under this Section 6(F).

6 7. USE – LESSEE shall use the Premises as office space for its Department of Agriculture
7 and public library space for its Fresno County Public Library, or for any other County of Fresno
8 department, office, or agency. LESSEE agrees to comply with all applicable laws, ordinances and
9 regulations in connection with such use.

10 LESSOR covenants that: (i) the Premises are suitable for the intended use; (ii) the Premises are
11 in compliance with all applicable laws, ordinances and regulations, including but not limited to safety
12 regulations, health and building codes; and (iii) the Premises shall remain in such compliance
13 throughout the term of this LEASE.

14 8. MAINTENANCE AND REPAIRS – LESSOR shall be responsible for all exterior and
15 interior maintenance of the Common Area, including repair of air conditioning, heating units, plumbing
16 systems, electrical systems, interior light fixture ballasts and lamp replacement fire sprinkler system,
17 roof, painting, flooring, landscape, quarterly parking lot sweeping, and parking and other common area
18 maintenance at the Premises, including janitorial service and supplies. LESSOR is also responsible for
19 the structural condition of the building and agrees that the building will always be maintained in a
20 condition acceptable for the LESSEE'S intended use of the Premises.

21 In the event any Building systems such as air conditioning and heating units malfunction,
22 restroom fixtures are not draining properly, or water intrusion, leaks or other events that immediately
23 impact LESSEE's occupancy of the Premises occur, LESSOR shall respond within twenty-four (24)
24 hours after contact by LESSEE to initiate repairs and to restore the systems to full working order.
25 Structural issues, including but not limited to damaged doors, walls, roof, and windows shall be a
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1 priority, and shall be addressed as soon as possible. LESSOR covenants that the Premises shall be
2 maintained in substantially the same condition as that existing at the commencement of this LEASE.

3 9. COMPLIANCE WITH ALL LAWS – As to the Premises, LESSOR acknowledges public
4 funds are used for payments made by LESSEE under this LEASE and for “public works” projects.
5 Accordingly, in connection with this LEASE (including construction of any Tenant Improvements)
6 LESSOR shall comply with, and shall ensure compliance by all contractors and subcontractors with, all
7 applicable laws and regulations, including the payment of prevailing wages pursuant to Section 1770 et.
8 seq. of the Labor Code.

9 10. BREACH OF OBLIGATION TO MAINTAIN – Upon a Party’s breach or default of any
10 other provision of this LEASE, the Parties shall comply with the terms for notice of default and cure
11 period set forth in this Section 10 of this LEASE.

12
13 In the event LESSOR breaches its obligation to maintain the Premises as herein provided,
14 LESSEE shall give written notice to LESSOR within fifteen (15) days of its discovery of such breach.
15 LESSOR shall then have thirty (30) days from the date of such notice to cure its breach, provided,
16 however, that if the item of maintenance requires more than (30) days to complete, but does not relate
17 to a health and safety matter, then LESSOR will not be in default hereunder if within such thirty (30) day
18 period, LESSOR commences the work on such maintenance and diligently and in good faith prosecutes
19 the same to completion. Subject to the foregoing, if the period for cure expires and if, in LESSEE’S sole
20 determination, LESSOR has failed to cure, then LESSEE may, at its election:

- 21 (A) Terminate this LEASE by providing thirty (30) days prior written notice. In such case,
22 LESSEE shall have the right to demand LESSOR refund any monies which, in the judgment
23 of LESSEE, were paid to LESSOR pursuant to the LEASE but which were not earned by
24 LESSOR by consequence of its breach. Upon receipt of such demand, LESSOR shall
25 promptly refund all such monies; or
26 (B) Cure LESSOR’s breach and deduct the cost of such cure, together with reasonable
27 administrative costs, from LESSEE’s future rent obligation. LESSEE’S decision to cure
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LESSOR'S breach shall not constitute a waiver of any rights or remedies that LESSEE may have arising from this LEASE or by operation of law.

11. DESTRUCTION OR DAMAGE FROM CASUALTY - If the Premises are damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter a "Casualty"), then LESSOR shall either promptly and diligently repair the damage at its own cost, or terminate this LEASE as provided hereinbelow.

(A) LESSOR'S Election to Repair: If LESSOR elects to repair the Casualty damage to the Premises, then it shall within fifteen (15) days after the date of Casualty provide written notice (hereinafter "Notice of Repair") to LESSEE indicating the anticipated time required to repair. LESSOR shall bear the cost of all repairs to the Premises, including the cost to repair any alterations or fixtures installed or attached thereto by LESSEE. Such repairs shall restore the Premises to substantially the same condition as that existing at the commencement of this LEASE; such repairs shall also be made in compliance with all applicable state and local building codes. LESSOR shall not be liable to LESSEE for compensation for any loss of business, or any inconvenience or annoyance arising from repair of the Premises as a result of the Casualty except for rent reduction as hereinafter provided. LESSEE shall be responsible at its sole cost and expense for the replacement of its personal property.

(B) LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect to terminate this LEASE due to Casualty if: the Premises have been destroyed or substantially destroyed by said Casualty; and the estimated time to repair the Premises exceeds sixty (60) days from the date of the Casualty. LESSOR shall provide LESSEE with written notice of its election to terminate within thirty (30) days after the date of Casualty, specifying a termination date not less than thirty (30) days from the date of said notice.

(C) LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not receive a

1 Notice of Repair from LESSOR within fifteen (15) days after a Casualty, or if the
2 anticipated period of repair contained in the Notice of Repair exceeds sixty (60) days, then
3 LESSEE may elect to terminate this LEASE by providing thirty (30) days prior written notice
4 to LESSOR. In such case, LESSEE shall have the right to demand that LESSOR refund
5 any monies which, in the judgment of LESSEE, were paid to LESSOR pursuant to the
6 LEASE but which were not earned by LESSOR by consequence of the Casualty. Upon
7 receipt of such demand, LESSOR shall promptly refund all such monies.

8 12. TERMINATION NOTICES – In the case of LESSEE, the Director of Internal
9 Services/Chief Information Officer or his or her designee shall have the power to provide the termination
10 notices as described herein to terminate this LEASE.

11 13. NON-FUNDING TERMINATION - This LEASE is contingent on the allocation of funds by
12 a governmental agency. Should funds not be allocated, this LEASE may be terminated by the Board of
13 Supervisors at any time by giving at least thirty (30) days prior written notice to LESSOR.

14 14. COMPATIBLE USE AND HAZARDOUS SUBSTANCES

15 A. COMPATIBLE USE; HAZARDOUS SUBSTANCES

16 1. Compatible Use: Each Party must use, and must require that any occupant
17 use, its Exclusive-Use Area in a manner that is reasonably compatible with the
18 Parties' use of the Building on the Effective Date and that does not deteriorate
19 or diminish the other Party's ability to use its Exclusive-Use Area or the
20 Common Area effectively. LESSOR must ensure that any occupant that
21 occupies any of the Common Area uses its space in a manner reasonably
22 compatible with the Parties' use of the Premises.

23 2. Hazardous Substances: Neither Party shall store, use, treat, manufacture, or
24 sell, or allow any other person to store, use, treat, manufacture, or sell, any
25 Hazardous Substance on the Premises except in compliance with state and
26 federal codes, ordinances, laws, and regulations, to the extent binding on
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1 LESSEE and issued by a court or governmental entity with jurisdiction over
2 LESSEE ("Law"). Hazardous Substance shall mean any material or substance
3 regulated under any federal, state, or local laws, ordinances, regulations,
4 rules, statutes, and administrative actions or orders respecting hazardous or
5 toxic substances, waste, or materials, or industrial hygiene.

6 15. INDEMNIFICATION AND HOLD HARMLESS

7 A. INDEMNIFICATION OBLIGATION OF LESSOR – LESSOR shall and does
8 indemnify, defend, and hold harmless the LESSEE, with counsel reasonably
9 acceptable to LESSEE, from and against all liability, damages, attorney fees, costs,
10 expenses, or losses with respect to which either Party is obligated to indemnify the
11 other Party under this LEASE ("Indemnified Loss") arising from (1) all LESSOR
12 Claims, and (2) Liability Claims where and to the extent that the Liability Claims
13 result from the willful misconduct or negligent acts, errors, or omissions of LESSOR.
14 "Liability Claims" shall refer to any demand, complaint, cause of action, or claim
15 alleging (1) bodily injury to or death of third parties (excluding any employees of
16 LESSOR or LESSEE acting within the scope of their employment as such), in, on,
17 or about the Premises, and (2) damage to or destruction of personal property of a
18 third party (other than personal property of LESSEE or LESSOR), in, on, or about
19 the Premises, but excludes all LESSOR Claims. "LESSOR Claims" shall refer to
20 any demand, complaint, cause of action, or claim related to the period on and after
21 the Effective Date, alleging or arising from acts, errors, omissions, or negligence of
22 the LESSOR in the administration and performance of operations on the Premises
23 (e.g. allegations of civil rights violations made by a third party against an employee
24 of LESSOR).

25 B. INDEMNIFICATION OBLIGATION OF LESSEE – LESSEE shall and does
26 indemnify, defend, and hold harmless LESSOR, with counsel reasonably
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1 acceptable to LESSOR, from and against all Indemnified Loss arising from Liability
2 Claims where and to the extent that the Liability Claims result from the willful
3 misconduct or negligent acts, errors, or omissions of LESSEE.

4 C. INDEMNIFIED PARTY'S PARTICIPATION – The indemnifying Party must manage
5 and be entirely responsible to handle and resolve all Liability Claims for which it is
6 responsible under sections 15(A) or 15(B), as applicable. The indemnified Party
7 may elect, but is not required, to retain its own attorney, at the indemnified Party's
8 sole expense, to participate in the litigation, settlement negotiations, or other
9 dispute resolution procedures for any Liability Claim as to which it is the indemnified
10 Party. If the indemnified Party elects to retain its own attorney to participate in the
11 litigation, settlement negotiations, or other dispute resolution procedures for a
12 Liability Claim, the indemnifying Party will cooperate with the indemnified Party, and
13 the attorney retained by the indemnified Party.
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15 D. EFFECT OF INDEMNIFICATION RIGHTS – The rights of a Party to be indemnified
16 under sections 15(A) or 15(B) of this LEASE cannot be deemed or construed to limit
17 or diminish the obligation of the indemnified Party to perform its duties at Law or
18 under any agreement between LESSEE and LESSOR. The indemnifying Party will
19 have no right of set off in respect of payment of any Indemnified Loss to the
20 indemnified party under this LEASE.

21 E. This Section 16 shall survive the termination of the LEASE.

22 16. INSURANCE - LESSOR shall, at its sole expense, maintain in full force and effect during
23 the term of this LEASE, the following policies of insurance:

- 24 a. Commercial General Liability Insurance with limits of not less than Two Million Dollars
25 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars
26 (\$4,000,000.00). This policy shall be issued on a per occurrence basis. LESSEE may
27 require specific coverages including completed operations, products liability, contractual
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1 liability, Explosion-Collapse-Underground, fire legal liability, or any other liability insurance
2 deemed necessary because of the nature of this contract.

3 b. Fire insurance and extended coverage. LESSOR shall add LESSEE as an additional insured
4 thereon.

5 Within (30) days from the date LESSOR executes this LEASE, LESSOR shall provide
6 certificates of insurance and endorsement as stated above for all of the foregoing policies, as required
7 herein, to the County of Fresno, Attn: ISD Lease Services, 333 Pontiac Way, Clovis, CA 93612, stating
8 that such insurance coverages have been obtained and are in full force; that the LESSEE, its officers,
9 agents and employees will not be responsible for any premiums on the policies; that for such worker's
10 compensation insurance the LESSOR has waived its right to recover from the LESSEE, its officers,
11 agents, and employees any amounts paid under the insurance policy and that waiver does not invalidate
12 the insurance policy; that such Commercial General Liability insurance names the LESSEE, its officers,
13 agents, and employees, individually and collectively, as additional insured, but only insofar as the
14 operations under this LEASE are concerned; that such coverage for additional insured shall apply as
15 primary insurance and any other insurance or self-insurance shall not be cancelled or changed without a
16 minimum of thirty (30) days advance written notice given to LESSEE.
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18 In the event LESSOR fails to keep in effect at all times insurance coverage as herein provided,
19 the LESSEE may, in addition to other remedies it may have, suspend or terminate this Lease upon the
20 occurrence of such event.

21 All policies shall be with admitted insurers licensed to do business in the State of California.
22 Insurance purchased shall be purchased from companies possessing a current A.M Best Company
23 rating of A FSC VII or better.

24 LESSEE shall maintain during the term of this Lease the following policies of insurance, which
25 coverages may be provided in whole or in part through one or more programs of self-insurance:
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1 a. Commercial General liability insurance with limits of not less than Two Million Dollars
2 (\$2,000,000.00) per occurrence and an annual aggregate of not less than Four Million Dollars
3 (\$4,000,000.00). This policy shall be issued on an occurrence basis.

4 b. All-Risk property insurance covering the personal property of LESSEE. LESSEE shall
5 add LESSOR as an additional insured thereon.

6 Waiver of Subrogation: Neither LESSOR nor LESSEE shall be liable to the other or to any
7 insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage
8 to any building, structure, or other tangible property, or any resulting loss of income and benefits, even
9 though such loss or damage might have been occasioned by the negligence of such party, its agents or
10 employees, if any such loss or damage is covered by insurance benefitting the party suffering such loss
11 or damage or was required to be covered by insurance pursuant to this LEASE. LESSOR and LESSEE
12 shall require their respective insurance companies to include a standard waiver of subrogation
13 provisions in their respective policies.

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15 17. SURRENDER OF POSSESSION - Upon the expiration or termination of this LEASE,
16 LESSEE will surrender the Premises to LESSOR in such condition as existing at the commencement of
17 this LEASE, less reasonable wear and tear, less the effects of any Casualty as herein defined, and less
18 the effects of any breach of LESSOR'S covenant to maintain. LESSEE will not be responsible for any
19 damage which LESSEE was not obligated hereunder to repair.

20 18. FIXTURES - LESSOR agrees that any equipment, fixtures or apparatus installed in or on
21 the Premises by LESSEE shall continue to be the property of LESSEE and may be removed by
22 LESSEE at any time. LESSEE shall repair any damage caused by the removal of fixtures. Any fixtures
23 not removed when LESSEE surrenders possession shall become the property of LESSOR.

24 19. RIGHT OF ENTRY - LESSOR, or its representative(s), after giving twenty-four (24) hours
25 written notice, shall have the right to enter the Premises at any time during business hours, or at such
26 other time as LESSEE deems appropriate, to make any alterations, repairs or improvements to the
27 Premises. The normal business of LESSEE or its invitees shall not be unnecessarily inconvenienced.
28

20. AMENDMENT - This LEASE may be amended in writing by the mutual consent of the parties without in any way affecting the remainder.

21. ASSIGNMENT - Neither Party shall assign, transfer or sub-let this LEASE, or the rights or duties under this LEASE, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or denied.

22. GOVERNING LAW - Venue for any action arising out of or relating to this LEASE shall be in Fresno County, California. This LEASE shall be governed by the laws of the State of California.

23. NOTICES - All notices to be given under this LEASE by either Party to the other Party shall be in writing, and given by any one of the following methods:

(i) Personal delivery; or

(ii) Sent by certified United States mail, first class postage prepaid, with return receipt requested, to the applicable addresses as set forth below, in which case such notice shall be deemed given three (3) business days if LESSOR is the recipient, or three (3) LESSEE business days if LESSEE is the recipient, after such deposit and postmark with the United States Postal Service; or

(iii) Sent by a reputable overnight commercial courier, in which case such notice shall be deemed given one (1) business day if LESSOR is the recipient, or one (1) LESSEE business day if LESSEE is the recipient, after such deposit with that courier to the applicable addresses as set forth below; or

The addresses of the Parties for purposes of giving receiving notices under this LEASE are as follows:

LESSEE:

County of Fresno
Director of Internal Services/
Chief Information Officer
333 Pontiac Way
Clovis, CA 93612

LESSOR:

City of Firebaugh
Attn: Benjamin Gallegos, City Manager
1133 P. St
Firebaugh, CA 93622

Provided however, such notices may be given to such person or at such other place as either of

1 the Parties may from time to time designate by giving written notice to the other Party, and provided further
2 however, in any event, notices of changes of address or termination of this LEASE shall not be effective
3 until actual delivery of such notice. Notices given hereunder shall not be amendments or modifications to
4 this LEASE.

5 24. INDEPENDENT CONTRACTOR – In performance of the work, duties and obligations
6 assumed by LESSOR under this LEASE, it is mutually understood and agreed that LESSOR, including any
7 and all of the LESSOR'S officers, agents, and employees will at all times be acting and performing as an
8 independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,
9 employee, joint venture, partner, or associate of the LESSEE. Furthermore, LESSEE shall have no right to
10 control or supervise or direct the manner or method by which LESSOR shall perform its work and function.
11 However, LESSEE shall retain the right to administer this LEASE so as to verify that LESSOR is performing
12 its obligations in accordance with the terms and conditions thereof.

13 LESSOR and LESSEE shall comply with all applicable provisions of law and the rules and
14 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

15 Because of its status as an independent contractor, LESSOR shall have absolutely no right to
16 employment rights and benefits available to LESSEE'S employees. LESSOR shall be solely liable and
17 responsible for providing to, or on behalf of its employees, all legally-required employee benefits. In
18 addition, LESSOR shall be solely responsible and save LESSEE harmless from all matters relating to
19 payment of LESSOR'S employees, including compliance with Social Security withholding and all other
20 regulations governing such matters. It is acknowledged that during the term of this LEASE, LESSOR may
21 be providing services to others unrelated to the LESSEE or to this LEASE.

22 25. MISCELLANEOUS

23 A. WAIVERS: No waiver of any provision of this LEASE shall be valid unless it is in
24 writing and signed by both Parties. Waiver by either Party at any time of a breach of
25 this LEASE cannot be deemed a waiver of or consent to a breach of the same or any
26 other provision of this LEASE. If a Party's action requires the consent or approval of
27
28

1 the other Party, that consent or approval on one occasion cannot be deemed a
2 consent to or approval of that action on any later occasion or a consent or approval
3 of any other action.

4 B. FORCE MAJEURE: Neither Party is responsible for performance under this LEASE
5 to the extent performance is prevented, hindered, or delayed by fire, flood,
6 earthquake, elements of nature, acts of God, acts of war (declared and undeclared),
7 riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable.

8 C. ASSIGNMENT: Neither Party may assign this LEASE in whole or in part, whether by
9 operation of law or otherwise, to any other entity, agency, or person without the prior
10 written consent of the other Party. Even if that consent is given, any assignment made
11 in contravention of any law will be void and of no effect.

12 D. BINDING EFFECT: This LEASE binds the Parties and their permitted successors
13 and assigns.

14 E. INTEGRATION; AMENDMENTS: This LEASE contains the entire agreement of
15 the Parties with respect to the subject matter of this LEASE, and supersedes all
16 previous communications, representations, understandings, and agreements,
17 whether verbal, written, express, or implied, between the Parties. This LEASE
18 may be amended only by written agreement signed by both of the Parties.
19

20 26. DISCLOSURE OF SELF DEALING TRANSACTIONS – This provision is only applicable if the
21 LESSOR is operating as a corporation (a for-profit or non-profit corporation) or if during the term of this
22 LEASE, the LESSOR changes its status to operate as a corporation.

23 Members of LESSOR'S Board of Directors shall disclose any self-dealing
24 transactions that they are a party to while LESSOR is providing goods or performing services under this
25 LEASE. A self-dealing transaction shall mean a transaction to which the LESSOR is a party and in which
26 one or more of its directors has a material financial interest. Members of the Board of Directors shall
27 disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing
28

Transaction Disclosure Form Exhibit "A", attached hereto and by this reference incorporated herein, and submitting it to the County of Fresno prior to commencing with the self-dealing transaction or immediately thereafter.

27. AUTHORITY – Each individual executing this LEASE on behalf of each Party represents and warrants that such individual is duly authorized to execute and deliver this LEASE on behalf of that Party's governing board, and that this LEASE is binding upon that Party, in accordance with its terms.

26. ENTIRE LEASE - This LEASE constitutes the entire LEASE between the LESSOR and LESSEE with respect to the subject matter hereof and supersedes all prior leases, negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly referenced in this LEASE.

This LEASE shall be binding on and inure to the benefit of LESSOR'S heirs, successors and assigns. EXECUTED as of the date first herein written.

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1 IN WITNESS WHEREOF, the parties hereto have executed this LEASE as of the day and year first
2 hereinabove written.

3
4 **LESSOR**

LESSEE
COUNTY OF FRESNO

5
6 _____
(Authorized Signature)

_____ Sal Quintero, Chairperson of the Board of
Supervisors of the County of Fresno

7 Benjamin Gallegos, City Manager

8
9 133 P. St
Firebaugh, CA 93622

10 By:

11 **ATTEST:**
12 Bernice E. Seidel
13 Clerk of the Board of Supervisors
County of Fresno, State of California

14
15
16 **FOR ACCOUNTING USE ONLY:**

17 ORG No.: 4010
18 Account No.: 7345
Requisition No.:

Deputy

19 ORG No.: 75112011
20 Account No.: 7345
21 Requisition No.:

1 **EXHIBIT A**

2 **SELF-DEALING TRANSACTION DISCLOSURE FORM**

3 In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a
4 contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-
5 dealing transactions that they are a party to while providing goods, performing services, or both for the
6 County. A self-dealing transaction is defined below:

7
8 *"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more*
9 *of its directors has a material financial interest"*

10
11 The definition above will be utilized for purposes of completing this disclosure form.

12
13 **INSTRUCTIONS**

- 14 (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- 15 (2) Enter the board member's company/agency name and address.
- 16 (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At
17 a minimum, include a description of the following:
- 18 a. The name of the agency/company with which the corporation has the transaction; and
- 19 b. The nature of the material financial interest in the Corporation's transaction that the
20 board member has.
- 21 (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of
22 the Corporations Code.
- 23 (5) Form must be signed by the board member that is involved in the self-dealing transaction described
24 in Sections (3) and (4).
- 25
26
27
28

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	



STAFF REPORT

TO: Honorable Mayor and City Council
 FROM: Ben Gallegos, City Manager
 DATE: 11/28/2018
 SUBJECT: Recycled Water Project Planning Funding Application

RECOMMENDATION

Approve the attached resolution authorizing the City Manager to prepare and submit a Clean Water State Revolving Fund (CWSRF) planning funding application to the State Water Resources Control Board (SWRCB) for grant funds to support the City's Recycled Water Project (Project) feasibility, planning, environmental, and preliminary design; and execute a financial assistance agreement from the SWRCB and any amendments thereto; and approve Requests for Partial Payment (claims for reimbursement); and sign any Budget and Expenditure Summaries and documents pertaining to project completion.

BACKGROUND

The City of Firebaugh has been considering the role of recycled water for the community pertaining to future water supply reliability and beneficial use of its wastewater flows as a valuable resource. The City is also going to be updating its NPDES permit in 2019 which will require some direction on how recycled water might fit into the future planning, design, and construction improvements to be considered at the City's wastewater facility. Recycled water is considered a valuable resource by the SWRCB and is a high priority in the State Water Plan.

The City has met with the SWRCB in coordinating this project and funding approach. The State is supportive of the City's efforts to determine if recycled water is a feasible resource option for the community and has grant funding available to assist the City to complete the necessary tasks.

The City Manager is recommending that the City follow a phased approach in developing the Project, based on the availability of grant funding, for evaluating the use of recycled water for the benefit of community as follows:

Project Phase	Priority Tasks	Funding Source
1	<ul style="list-style-type: none"> Feasibility Study Planning Preliminary Design Environmental - CEQA 	Planning grant funds through the SWRCB (based on a preferred project resulting from the feasibility study)
2	<ul style="list-style-type: none"> Final Design Initial Construction 	Construction grant funds through the SWRCB (based on completion of Phase 1 work)
3	<ul style="list-style-type: none"> Final Construction (only required if grant funding in Phase 2 above is insufficient to complete preferred project construction) 	TBD

The attached resolution authorizes the City Manager to pursue grant funds available through the CWSRF funding program to complete the recommended Phase 1 work for the City's recycled water project. The City is eligible for up to \$500,000 in grant funds for small disadvantaged communities to complete planning and design related tasks using 100% grant funds as the funding source. The City would first complete the recycled water feasibility study to determine if a recycled water project is feasible and to recommend a preferred project. If the City and State both support the preferred project recommended in the feasibility study, the City would then have the grant funds already in place to complete a preliminary project design and environmental work. The City Manager will bring the feasibility study to the City Council for discussion and direction before proceeding with any additional work on the Project.

DISCUSSION

City staff has been working with EKI Environment & Water, Inc. to assist in developing a cost-effective approach for the City to consider recycled water for the community's future. EKI has extensive experience in working with small communities on municipal engineering solutions, providing funding assistance, and working with State resource and funding agencies to maximizing the use of available grant funds to meet the City's financial objectives. The recommended course of action in this staff report is the most cost effective and beneficial manner for the City to determine if recycled water fits into the City's future, and to make progress concurrently with the upcoming NPDES permit update cycle.

FISCAL IMPACT

The proposed actions would be 100% grant funded on a reimbursement basis. There is no anticipated long term fiscal impact to the City.

RESOLUTION NO. - 18-59

RESOLUTION OF THE CITY OF FIREBAUGH (CITY) AUTHORIZING THE CITY MANAGER TO SIGN, SUBMIT AND EXECUTE A FINANCIAL ASSISTANCE APPLICATION FOR A GRANT AGREEMENT FROM THE STATE WATER RESOURCES CONTROL BOARD (SWRCB) FOR THE FEASIBILITY, PLANNING, ENVIRONMENTAL, AND A PRELIMINARY DESIGN OF THE CITY OF FIREBAUGH RECYCLED WATER PROJECT (THE "PROJECT") AND EXECUTE A FINANCIAL ASSISTANCE FUNDING AGREEMENT AND ANY AMENDMENTS THERETO FOR THE PROJECT THAT BENEFITS THE CITY'S WASTEWATER CONTROL PLANT AND COMMUNITY WATER SUPPLY; AND AUTHORIZING THE CITY MANAGER TO APPROVE REQUESTS FOR PARTIAL PAYMENT (CLAIMS FOR REIMBURSEMENT), SIGN BUDGET AND EXPENDITURE SUMMARIES, AND SIGN ANY DOCUMENTS PERTAINING TO PROJECT COMPLETION.

WHEREAS, the CITY is evaluating how to best optimize future improvements to its wastewater treatment facilities while maintaining a safe reliable water supply for the community; and

WHEREAS, the CITY is considered a small severely disadvantaged community in accordance with State funding program guidelines and needs financial assistance in evaluating the benefits of using recycled water in the future for the benefit of the City's water supply and wastewater treatment facility; and

WHEREAS, the CITY hired EKI Environment and Water, Inc. (EKI) to provide funding assistance to prepare and submit a funding application to secure up to \$500,000 in grant funds to assess the feasibility of using recycled water in the future for the benefit of the community; and

WHEREAS, the CITY is eligible to receive grant funds to complete a recycled water feasibility study to identify a preferred project that, if acceptable to both the City and State, would make the City eligible to utilize remaining grant funds to complete a preliminary design, CEQA compliance documentation, TMF compliance documentation, and other eligible planning and design related actions up to the maximum \$500,000 planning grant limit to support the City's future beneficial use of recycled water; and

WHEREAS, the CITY will need to apply for additional grant funding from other funding sources to prepare the final design, construction, and construction engineering if a recycled water project is identified as feasible; and

WHEREAS, the CITY is required to adopt a resolution formally authorizing necessary actions to secure grant funding up to the amount of \$500,000 for the CITY's Project to cover the costs for completing a feasibility study, planning, a preliminary design, environmental and related costs associated with developing a Project to provide future use of recycled water that benefits of the community; and

WHEREAS, the City Council hereby approves a Project budget not to exceed \$500,000 which would be covered by grant funding available through the State Water Resources Control Board (SWRCB) Clean Water State Revolving Fund Program.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City Manager is hereby authorized and directed to prepare, sign and file, for and on behalf of the CITY, a Financial Assistance Application for a funding agreement from the SWRCB for the feasibility, planning, environmental, and a preliminary design of the City of Firebaugh Recycled Water Project; and

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager as designated by the City Council, is hereby authorized to provide assurances, certifications, and commitments required for the financial assistance application,

including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto; and

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager, as designated by the City Council, is hereby authorized to represent the CITY in carrying out the CITY’s responsibilities under the grant agreement, including signing any Budget and Expenditure Summaries and approving Requests for Partial Payment (claims for reimbursement) for the Project through the State Water Resources Control Board consistent with funding program guidelines; and

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager, as designated by the City Council, is hereby authorized to approve any documentation related to Project progress and completion and is responsible to ensure CITY compliance with applicable state and federal laws.

The City Council does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting by the City Council of the City of Firebaugh on the 3rd DAY of December 2018 by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

APPROVED

ATTEST:

Name: Felipe Perez, Mayor
City of Firebaugh

Rita Lozano, City Deputy Clerk
City of Firebaugh

FIREBAUGH CITY COUNCIL

STAFF REPORT

Date: December 3, 2018
To: Firebaugh City Council
From: Greg Collins, Planning Consultant
Subject: HUD Tank Mitigated Negative Declaration

Summary/Recommendation

The City has completed a Mitigated Negative Declaration (MND) for what is called the HUD Tank project, which involves the replacement of the city's HUD tank and associated equipment as well as replacing a water line that starts at the HUD Tank location and extends southward to the Delta/ Mendota Canal. A MND, which is an environmental document under the California Environmental Quality Act (CEQA), indicates that the project will not have an adverse impact on the environment so long as mitigation measures detailed in the mitigation monitoring program are adopted.

Staff is recommending that the City Council approve a Mitigated Negative Declaration for the project including a mitigation monitoring program. A resolution is attached to this report for the city council's action. If the resolution is approved staff will record a Notice of Determination with the county of Fresno.

Discussion/Analysis

Project Location

The proposed HUD Tank Project, the "project", is generally located on the south side of the City of Firebaugh, in Fresno County. More specifically, the HUD Tank project area is situated west of State Highway 33 south of West Nees Avenue in Firebaugh (see Map 1: Project Location).

Firebaugh is located on State Highway 33 in western Fresno County, 40 miles west of the city of Fresno. It is situated just east of State Highway 33, about 18 miles east of Interstate 5. The nearest city to Firebaugh is Mendota, about 10 miles to the southeast (see Map 2: Regional Location).

Project Purpose

This project is necessary to maintain water quality delivered to the Community of Las Deltas within regulatory standards, while providing adequate water supplies to prevent risk to public health and welfare. According to California Water Works Standards, Article 8, Section 64602,

*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

“Each distribution system shall be operated in a manner to assure that the operating pressure in the water main at the user service line connection throughout the distribution system is not less than 20 pounds per square inch at all times.”

The water distribution system serving the community of Las Deltas is aging and deteriorated. Pipeline leaks, breaks and system down time have caused the system to at times have zero to negative pressures. The water system has also suffered outages periodically. A water pressure logger placed on the system in August 2010 recorded readings below 15 pounds per square inch (psi) on multiple occasions. This demonstrates that the Las Deltas water system is currently not in compliance with the California Water Works Standards, posing a potential health hazard to residents. Further, significant water quantity problems caused by inadequate water delivery capability of the distribution system results in insufficient water to meet the current demand of customers. Consequently, the CDPH has placed Las Deltas as Category “E” on the Drinking Water State Revolving Fund Priority List.

The reasons advanced above point to the need for the Las Deltas water system to be brought in compliance with the California Water Works Standards as soon as possible to protect the health of the residents.

Design criteria are required to guide the planning and design of new water system infrastructure. A set of criteria was developed for the Las Deltas’ water system, based on the City of Firebaugh’s 2008 Improvement Standards, which are consistent with industry standards (including California Department of Public Health Guidelines such as Title 22, Chapter 16 of the California Water Works Standards). These criteria include water supply, fire flow and pipeline sizing requirements.

Sufficient water system pumping capacity, in conjunction with available storage, must be provided to meet the Maximum Fire Flow concurrent with the Maximum Day Demand or Peak Hour Demand of the City. It should be assumed that the largest pump in the water system is in standby mode.

Many Fire Departments in California use the California Fire Code (CFC) to assist them in establishing minimum fire flows and durations for individual structures. The City of Firebaugh’s Improvement Standards require fire flows of 2,000 gpm for low density residential development. This fire flow needs to be available for a minimum of 2 hours. Key standards include:

Distribution pipelines are generally smaller than 12 inches in diameter and are sized based on the criteria described below for average day, maximum day plus fire flow, and peak hour demand conditions.

- Service pressures should be maintained at a minimum of 40 psi. This limit represents design criteria that will protect the integrity of the system and improve system reliability.
- Fire flows are assumed to be concurrent with maximum day demand. Fire flow at fire

*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

hydrants should be at least 2,000 gpm with a minimum pressure of 20 psi at the flowing fire hydrant.

- Service pressures should be maintained at a minimum of 40 psi during Peak Hour Demand periods to ensure system reliability.

Benefits of the Project

The project will benefit the community by:

- providing safe drinking water that meets federal and state drinking water standards,
- providing adequate source capacity for drinking and fire suppression that meets the requirements of the State of California, Department of Health Services, and
- assist the City with its efforts to provide affordable water for the residents of Las Deltas by minimizing the cost of water facility operations.

Potential Funding Sources

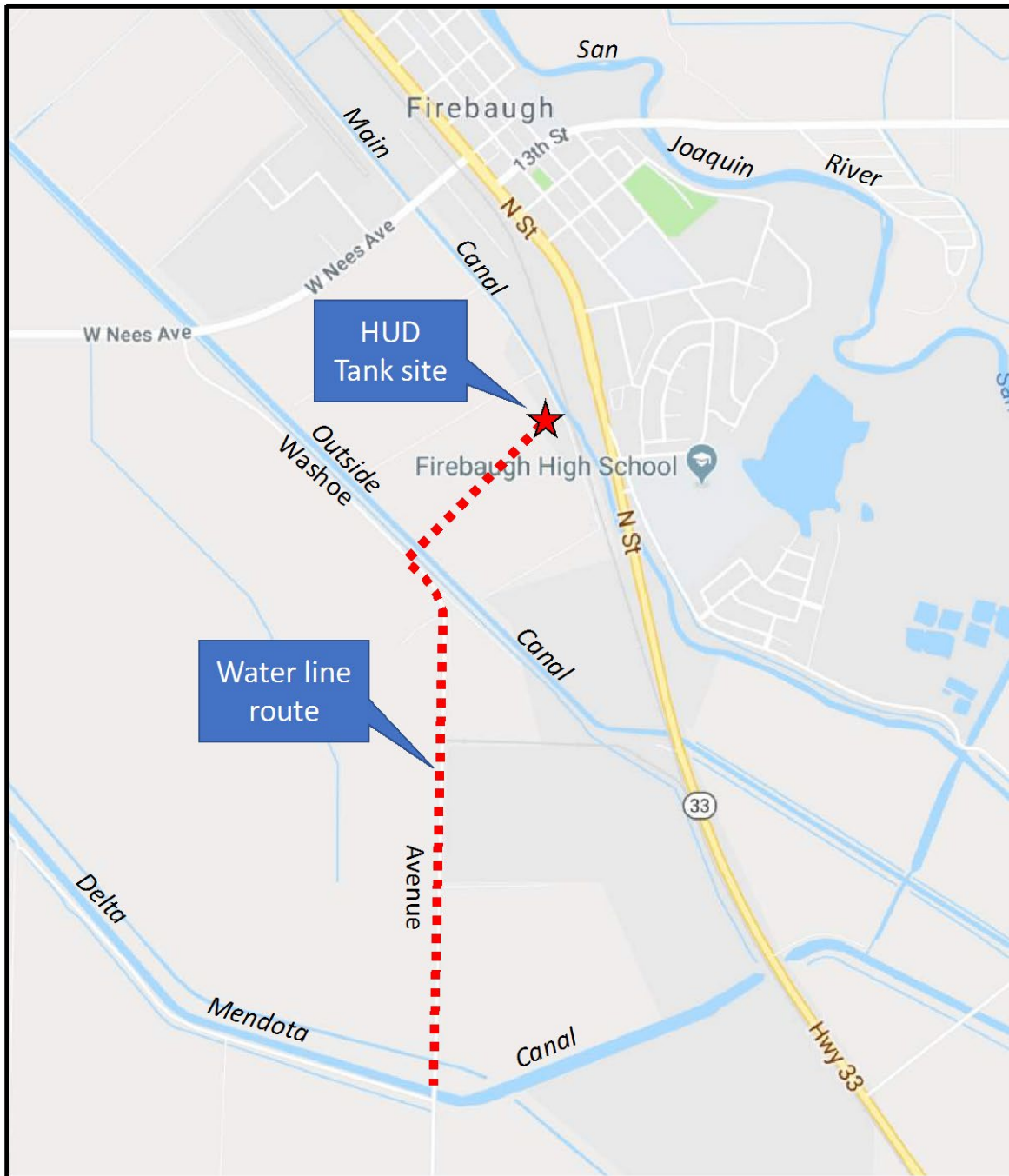
The City of Firebaugh is seeking the full cost of the project from potential funding agencies including USDA, Department of Public Health, Community Development Block Grant Program, and the State Revolving Loan Fund. The City is committed to locating and securing any needed funding to close a “financial gap” should one arise, thus ensuring the project will be completed in an efficient and timely manner.

Project Schedule

The total length of time required for design and construction is expected to take approximately one year.

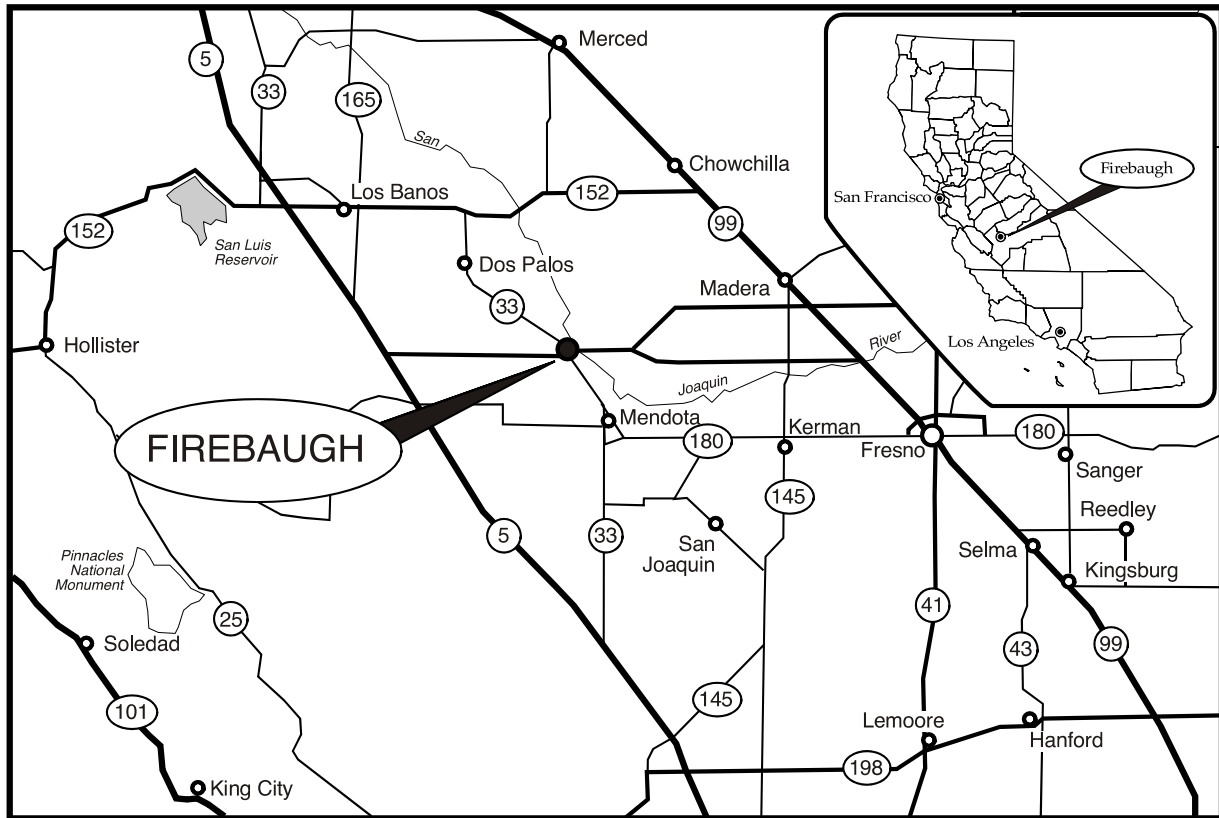
Map 1: Project Location

Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration



*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

Map 2: Regional Location



The proposed HUD Tank site is located in the southeast quarter of Section 33, Township 12 South, Range 14 East (see Map 3: USGS Map).

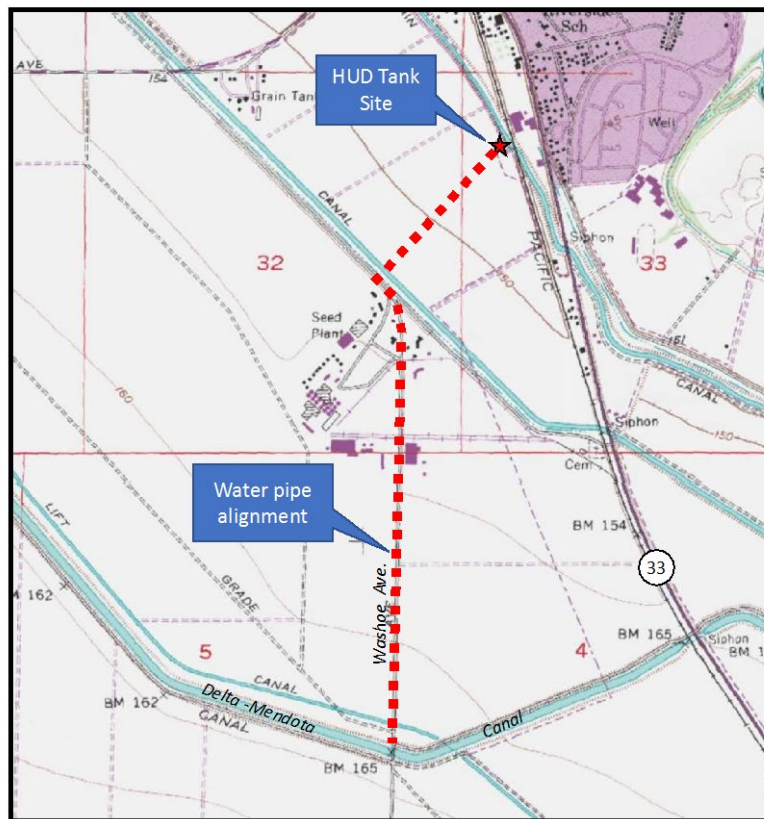
The City of Firebaugh provides potable water to the Las Deltas Mutual Water Company, located south of the Firebaugh city limits. The project is necessary to ensure water quality that meets State Safe Drinking Water Standards, maintains an effective pressure level for fire suppression purposes, and resolves the many leaks in the water line system that delivers water to the Las Deltas community. To meet these objectives, the City of Firebaugh has proposed the replacement of an existing 750,000 gallon HUD tank, a 3.0 MGD booster pump station (see Map 4: HUD Tank plot plan) and a transmission line from the tank site to the north side of the Delta-Mendota Canal on Washoe Avenue (see Map 5: Pipe Line Alignment). The major features of the project are:

- Demolition/abandoning/disposal of the existing facilities
- Installing temporary pump station
- 750,000 gal water storage tank

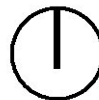
*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

- 3.0 MGD pump station in concrete masonry building
- Standby generator
- Electrical and controls with SCADA integration
- Site piping and valving
- Electromagnetic flowmeters
- Site fencing and gates
- Site lighting
- 12-inch transmission line from HUD tank to North side of DMC
- Pipe crossings at Washoe Ave and CCID canal

Map No. 3: USGS Map

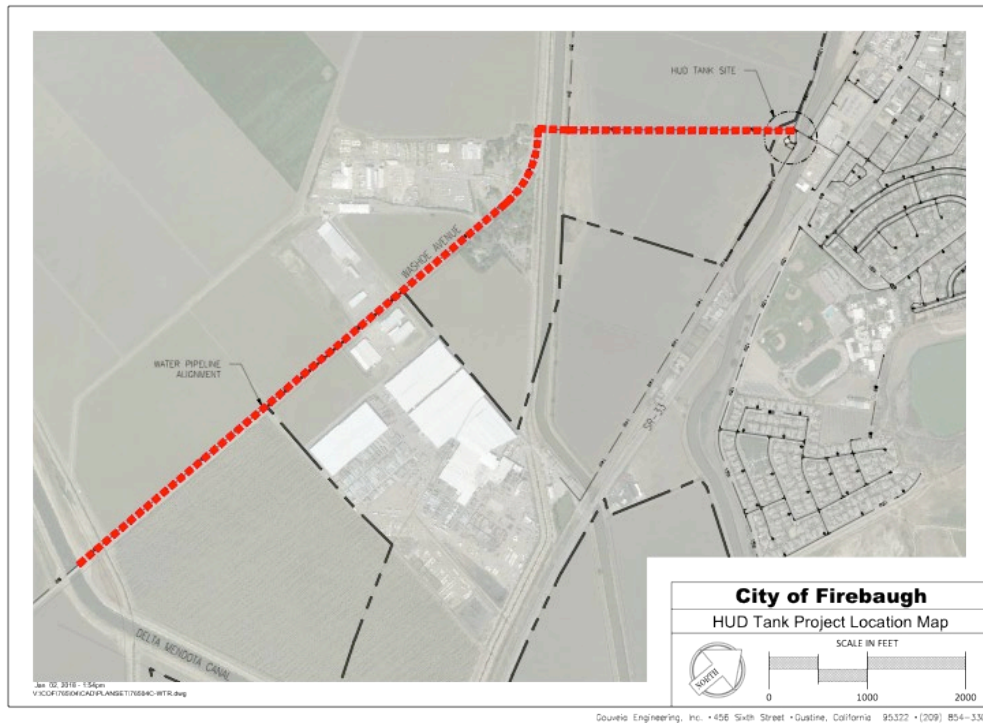


HUD Tank Project Topography Map



*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

Map No. 5



BACKGROUND INFORMATION

Applicant/: City of Firebaugh

Location: The subject site is located on the northwest corner of 15th Street and Q Street. The Assessor Parcel Number is 008-124-004.

Request: The applicant is requesting approval of a Zone Change to rezone the site from R-1 (Single Family Residential) to R-2 (Low Density Multi Family Residential). The applicant was previously granted approval for Site Plan Review to construct a duplex on the site – contingent upon approval of the zone change. Key features of the duplex include:

- Each duplex will have 3 bedrooms, 2 baths, a covered rear patio and contain 2,065 square feet
- Each unit will have a two car garage, facing 15th Street
- Fencing
- Landscaping
- Utility connections

Site: The site is currently vacant. It contains 15,000 square feet and has 100 feet of frontage along Q Street and 150 feet along 15th Street. Surrounding land uses are as follows:

North: Single family dwelling
South: Single family dwelling
East: Single family dwelling and Dunkle Park
West: Single family dwelling

Zone: The site is zoned R-1 (Single Family Residential). Key development standards for the R-1 district are as follows:

Front yard setback: 20 feet, minimum;
Rear yard setback: 10 feet, minimum
Side yard setback: 5 feet, minimum interior side; 10 feet, minimum street side, however a garage opening to the street side yard must be set back at least 20 feet.
Building height: Two stories; 25 feet, maximum;
Parking: Two covered spaces per unit;
Density: One main house and one accessory dwelling unit are permitted (on lots larger than 6,500 square feet)

*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

Standards for the R-2 zone are as follows:

Front yard setback:	15 feet, minimum;
Rear yard setback:	10 feet, minimum
Side yard setback:	5 feet, minimum interior side; 10 feet, minimum street side, however a garage opening to the street side yard must be set back at least 20 feet.
Building height:	Two stories; 25 feet, maximum;
Parking:	1-1/2 spaces per unit; one space per unit must be covered with a garage or carport
Density:	One unit per 3,250 square feet of lot area

Surrounding zone classifications are as follows:

North: R-1 (Single Family Residential)
South: R-1 (Single Family Residential)
West: R-1 (Single Family Residential)
East: R-1 (Single Family Residential) and O (Open Space)

General Plan: The subject site is currently designated “Medium Density Residential” by the Land Use Element of the Firebaugh General Plan. Both the R-1 zone and the R-2 zone are consistent with the Medium Density Residential designation.

Access: Access to the site is provided by 15th Street, Q Street and an alley. Both 15th Street and Q Street are classified as “Local” roadways by the Circulation Element of the 2030 Firebaugh General Plan. Along the site frontages, both streets are improved with one travel lane and one parking lane in each direction, along with curbs, gutters and sidewalks (only on Q Street). The intersection of 15th and Q is controlled by a stop sign for traffic on 15th Street. A paved alley runs along the west side of the site, and connects to 15th Street on the south and 14th Street on the north.

Infrastructure: There are existing utility lines adjacent to the site that can serve the project. There are 8-inch water lines under both 15th and Q Streets, and a 12 inch water main under the alley to the rear of the site. There are 8-inch sewer lines under 15th Street and under the alley to the rear of the site. There is a 6-inch sewer line under Q Street. Storm drainage is via surface curbs and gutters. The nearest storm drain inlet is at the corner of Q and 14th Streets.

Services: Police and fire protection are provided by the City of Firebaugh.

*Staff Report to Firebaugh City Council
HUD Tank Mitigated Negative Declaration*

Environmental: A mitigated negative declaration consistent with the Guidelines of the California Environmental Quality Act has been prepared for the HUD Tank project

RESOLUTION NO. - 18-60

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
APPROVING A MITIGATED NEGATIVE DECLARATION FOR THE HUD
TANK PROJECT**

WHEREAS, the City of Firebaugh is seeking approval of a project entitled HUD Tank project, which involves the construction of a new water tank and the extension of new water lines to areas south and west of the city of Firebaugh, and

WHEREAS, the following specific improvements are associated with the HUD Tank project:

- Demolition/abandoning/disposal of the existing facilities
- Installing temporary pump station
- 750,000 gal water storage tank
- 3.0 MGD pump station in a concrete masonry building
- Standby generator
- Electrical and controls with SCADA integration
- Site piping and valving
- Electromagnetic flowmeters
- Site fencing and gates
- Site lighting
- 12-inch transmission line from HUD tank to North side of DMC
- Pipe crossings at Washoe Avenue and Outside Canal

WHEREAS, these water-related improvements constitute a "project" under the California Environmental Quality Act (CEQA), and

WHEREAS, the Mitigated Negative Declaration/Initial Environmental Study were circulated for review and comment to local agencies, and

WHEREAS, the City received two comment letters on MND/IS – Caltrans and County of Fresno Public Works, Planning and Environmental Health Department, and

WHEREAS, Caltrans had no comments (see attached letter), and

WHEREAS, Fresno County detailed primarily standards for construction, permits, and regulations for handling hazardous waste as well as mitigating short-term noise impacts (see attached letter), and

WHEREAS, the contractor who constructs the HUD Tank project will be required to comply with all the regulations detailed in the Fresno County letter as well as other local and state regulations that pertain to the construction of the project, and

WHEREAS, it determined that the proposed project could have certain environmental impacts on the environment that are associated with biotic resources, and

WHEREAS, the Firebaugh City Council did conduct a duly-noticed public hearing, accepting written and oral testimony both for and against the HUD Tank project and considered approval of the Project and the Mitigated Negative Declaration prepared on the Project; and

WHEREAS, the Initial Environmental Study determined that the proposed project could have certain environmental impacts on the environment, associated with biotic resources, and

WHEREAS, the Initial Study prepared for the HUD Tank project identified certain mitigation measures that could be implemented by the city of Firebaugh to reduce potential biotic impacts to a less than significant level, and

WHEREAS, said mitigation measures are attached to this resolution and identified as a Mitigation Monitoring Program (Exhibit A), and

WHEREAS, during the construction of the HUD Tank project, certain experts in the field of biotic resources will be employed to ensure that the mitigation measures are properly implemented so that potential impacts to this resource are avoided.

NOW, THEREFORE, BE IT RESOLVED that the City Council, after considering all the evidence presented, determined the following finding was relevant in approving a Mitigated Negative Declaration for the HUD Tank project.

1. The City has prepared a Mitigated Negative Declaration/Initial Environmental Study (IES) consistent with the requirements of CEQA. The IES determined the project would not have a significant impact on the environment because impacts associated with biotic resources will be mitigated and reduced to less than significant levels.

NOW, THEREFORE BE IT RESOLVED THAT the Initial Environmental Study/ Mitigated Negative Declaration prepared on the project has been reviewed by the Firebaugh City Council prior to their consideration of the HUD Tank project and that the Council hereby approves a Mitigated Negative Declaration for the HUD Tank project subject to a mitigation monitoring program, as attached (See Exhibit A).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Firebaugh duly called and held on the 3rd day December, 2018, by the following vote:

AYES: Council Member(s):

NOES: Council Member(s):

ABSENT: Council Member(s):

ABSTAIN: Council Member(s):

APPROVED:

Mayor

ATTEST:

City Clerk

Exhibit A

Mitigation Monitoring Program

Mitigation Measuring	Time Frame	Responsible Agency/Individual
Biological Mitigation Measures		
1.	During construction	Project contractor and City Engineer
<p>1.1.1.1. GENERAL CONSERVATION MEASURES</p> <p>1. Each non-agricultural vegetated area outside of the project footprint would be delineated as an Environmentally Sensitive Area (ESA) and depicted as such on design plans. All parties in conjunction with this operation would strictly avoid these areas. No construction activities, materials, or equipment would be permitted in the ESA(s). The boundaries of the ESA(s) would be fenced with orange plastic snow fencing. Construction work areas would be clearly marked in the field and confirmed by the biologist prior to habitat clearing, and all fenced boundaries would be maintained throughout the construction period. The ESA fencing would be promptly removed at the conclusion of construction activities (assumed to be before the removal of BMP fencing).</p> <p>2. The City would designate a Service-approved biologist who would be responsible for overseeing monitoring and compliance with protective measures for the biological resources. The biologist should be familiar with the life history and ecology of the flora and fauna potentially</p>		<p>Field Biologist</p> <p>Field Biologist</p>

<p>present within the Project site, including the giant garter snake and the San Joaquin kit fox. The biologist should be familiar with field techniques, to include handling of species, as well as construction techniques relative to the project types proposed. A section 10(a)(1)(A) permit could be necessary for the handling of federally listed species. The biologist would maintain communications with the appropriate personnel (i.e., project manager) to ensure that issues relating to biological resources are appropriately and lawfully managed. The biologist would also be present to ensure compliance with all conservation measures. The monitoring biologist should submit reports that document compliance with these measures to the Service upon request or, at a minimum, included in the end of the year report. The applicant would submit the biologist's name, address, telephone number, and work schedule for the project to the Service at least 15 days prior to initiating project impacts. The Service will review all submitted information within 15 days of being received. If the Service has not responded within 15 days, concurrence can be assumed. In addition, the biologist should perform the following duties:</p> <ol style="list-style-type: none"> a. Be onsite during all vegetation clearing/grubbing and weekly during project construction in upland/riparian habitat to be impacted. b. Inspect the fencing and erosion control measures of all project areas 		
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<p>(including preservation/restoration/creation sites) a minimum of once per week. Particular attention should be made immediately before and after rain events to ensure that any breaks in the fence or erosion control measures are repaired.</p> <p>c. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training would include (1) the purpose for resource protection; (2) a description of the sensitive species and their habitats; (3) the conservation measures in the biological opinion that should be implemented during project construction, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (4) environmentally responsible construction practices; (5) the protocol to resolve conflicts that may arise at any time during the construction process; and (6) the general provisions of the FESA and CESA, the need to adhere to the provisions of the FESA and CESA, and the penalties associated with violating the FESA and CESA.</p>		
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<p>d. Ensure that any measures developed in coordination with the Service to avoid all impacts to all encountered sensitive species as well as other nesting birds are implemented.</p> <p>e. Halt work, if necessary, and confer with the Service and/or CDFW to ensure the proper implementation of species and habitat protection measures. The biologist would report any breach of the conservation measures within this assessment to the Service and/or CDFW within 24 hours of its occurrence.</p> <p>f. A final yearly report would be prepared and submitted to the Service and would include as-built construction drawings with an overlay of habitat that was impacted and avoided; a summary of compliance with conservation measures, reasonable and prudent measures, and term and conditions; a summary or accounting of the acreages and applicable habitat types impacted; photographs; and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conditions of this biological opinion was achieved.</p> <p>3. Dewatering may be required for work in wetlands. If dewatering is conducted, either a pump would move water to an upland disposal site, or a sediment basin or other structure would be used to collect and treat the water. If applicable, a National</p>		
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<p>Pollutant Discharge Elimination System permit could be required. If not applicable, the water returned to the waterway should be equivalent in basic parameters (e.g., turbidity, total suspended solids) as that in the wetland during normal conditions.</p> <p>4. Project-related vehicles will observe a 15 mph speed limit in all project areas, except on City and County roads and State highways.</p> <p>5. Tightly woven fiber netting or similar material shall be used for erosion control or other purposes at the Project. This limitation will be communicated to any contractors through use of Special Provisions included in the bid solicitation package. Plastic monofilament netting (erosion control matting) or similar material shall not be used in construction areas because small animals, including special-status species may become entangled or trapped in it.</p> <p>6. The applicant would ensure that all temporary irrigation is for the shortest duration possible, and that no permanent irrigation is used for landscape or habitat creation/restoration/enhancement.</p> <p>7. Appropriate BMPs would be used to control dust, erosion, and sedimentation. Sediment or debris would not be allowed to enter the waterways unless approval is granted from the appropriate regulating agencies.</p> <p>8. BMPs to address erosion and excess sedimentation would be incorporated into</p>		
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<p>the project plans. Measures that would be implemented during construction include portable concrete washouts, temporary fencing, drainage inlet protection, fiber rolls, gravel bags, temporary construction entrances, and any other procedures deemed appropriate by Caltrans.</p>		
<p>9. The changing of oil, refueling, and other actions that could result in a release of a hazardous substance would be restricted to designated areas that are a minimum of 100 feet from wetlands or drainages. Such designated areas would be surrounded with berms, sandbags, or other barriers to further prevent accidental spill of fuel, oil, or chemicals. Any accidental spills would be immediately contained, cleaned up, and properly disposed.</p>		
<p>10. All debris from bridge decks or columns would be caught using tarps or other measures, so that debris does not fall into the ESAs or waterways.</p>		
<p>11. Any night lighting needed for any activities associated with a project would be selectively placed, shielded, and directed away from all ESAs.</p>		
<p>12. Any vegetation requiring pruning and not removal would be pruned to accomplish the necessary task and an effort would be made to promote the maximum amount of resprouting. All areas where vegetation would be removed would be revegetated with native species similar to those removed.</p>		
<p>13. To avoid attracting predators, the Project</p>		

<p>site would be kept as clean of debris as possible. All food-related trash items would be placed in sealed containers and regularly removed from the site.</p> <p>14. Pets or firearms would not be allowed on the Project site.</p> <p>15. Any impacts to canals or irrigation ditches with emergent or aquatic vegetation shall implement the following measures to avoid potential impacts to giant garter snake (USFWS 1997) and western pond turtle:</p> <ul style="list-style-type: none"> a. A pre-construction survey for giant garter snake and western pond turtle will be conducted 24 hours prior to construction and if there is a lapse of 14 days the survey should be re-conducted. b. If a giant garter snake is detected during the pre-construction survey, no construction will take place within suitable habitat. The City will contact USFWS and no work within suitable habitat will take place without authorization from USFWS. c. If a western pond turtle is detected during the pre-construction survey, no construction will take place until the turtle has left the work area on its own volition. If the turtle does not leave the work area within 48 hours, it may be relocated by a biologist approved by CDFW. d. Any dewatered areas will remain dry for at least 15 consecutive days after April 15 and prior to excavating or 		
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<p>filling the area.</p> <p>e. Construction activities in suitable giant garter snake habitat will be limited to their active season to avoid injuring them (May 1 through October 1), to the extent feasible.</p> <p>f. Emergent vegetation will be manually removed, and if feasible, all construction should be conducted outside a 200 feet buffer from potential habitat.</p> <p><i>Conservation Measures for Permanent Impacts</i></p> <p>The following apply as offsetting conservation measures for <u>permanent</u> impacts.</p> <ol style="list-style-type: none"> 1. Wetland habitat would be offset at a 3:1 ratio with any combination of offsite preservation, creation, or restoration of native habitat. 2. All Federal waters would be offset following the requirements of the Regional Water Quality Control Board and US Army Corps of Engineers (Corps). 3. Nonnative grassland habitat would be offset at a 0.5:1 ratio with any combination of offsite preservation, creation, or restoration of native habitat. 4. If offsetting measures for <u>permanent</u> impacts include enhancement, restoration, or creation of habitat (unless mitigation is proposed within a Service approved mitigation site), a plan outlining the details and implementation schedule of all enhancement, restoration, and creation to offset <u>permanent</u> impacts to vegetation 		
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<p>would be prepared. The plan should be submitted to the Service for review and approval at least 90 days prior to planting. All enhancement, restoration, and creation activities to offset permanent vegetation impacts should commence the first late-summer/fall/winter season prior to or concurrently with the start of the work. The latest any offsetting enhancement, restoration, or creation activities could occur would be the first late-summer/fall/winter immediately after project activities have been initiated. The plan should include:</p> <ol style="list-style-type: none"> a. A five-year maintenance and monitoring program that would be implemented for the created, enhanced, and/or restored habitats. b. If established performance criteria are not met, the proponent would prepare an analysis of the cause(s) of failure and, if deemed necessary by the Service, propose remedial actions. If any of the enhanced/restored/created habitats have not met a performance criterion during the initial five-year period, the work proponent's maintenance and monitoring obligations would continue until the Service deemed the enhancement/restoration successful or contingency measures were implemented. c. Reports that assess both the attainment of yearly success criteria and progress toward the final success criteria would be included in the 		
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<p>yearly project reporting document.</p> <p>5. The following measures would be implemented at all offsite enhancement, restoration, and creation sites to avoid and minimize effects to listed species and migratory birds during the five-year restoration period:</p> <ul style="list-style-type: none"> a. Any construction-related activities would avoid the breeding/mating season (February 1–September 30). b. If maintenance and monitoring activities are conducted between February 1 and September 30, a qualified biologist would conduct a habitat assessment and any necessary subsequent protocol surveys to determine the presence or absence of listed species and migratory birds prior to the start of proposed activities. <ul style="list-style-type: none"> i. If nesting birds are onsite, no maintenance activities would be conducted within 100 feet of a nest (buffer zone). If workers need to encroach into the 100-foot buffer zone, then the City and the Service would be notified immediately. Prior to maintenance workers accessing the 100-foot buffer zone, the City and the Service would determine the most appropriate timing and methods to avoid causing harm to the nest and/or the nesting pair. ii. If listed species are onsite, the Service and CDFW, as 		
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<p>appropriate, should be contacted to determine the benefit of continuing the maintenance and monitoring activities during the breeding/mating season.</p> <p>c. An education program would be implemented by the project proponent to ensure that all enhancement, restoration, and creation site maintenance workers understand the work restrictions and are aware of the above described conservation measures.</p> <p>6. Some of the drainage ditches and irrigation canals, and associated wetlands, in the Study Area are potentially regulated by the Corps as wetlands or other waters of the United States under Section 404 of the Clean Water Act. The extent of federally protected wetlands or waters in the APE is not known at this time. If avoidance of wetlands is not possible, prior to the implementation of the proposed project, a formal wetland delineation shall be conducted in the Project area to determine the extent of jurisdictional wetlands and other waters that may be impacted by the proposed project. Ditches and irrigation canals in the Project area should be considered on a case by case basis to determine their jurisdictional status.</p> <p>7. Work within areas defined as waters of the U.S. that includes placement of fill will require a Clean Water Act Section 404 permit from the Corps. All work proposed</p>		
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<p>in jurisdictional waters of the U.S. will be authorized by permits from the Corps. In areas where project activities are temporary in nature, jurisdictional wetland and other waters of the U.S. will be restored to their condition prior to disturbance. In areas where permanent disturbance to jurisdictional waters or wetlands will occur, the City will identify if potential mitigation sites are present within close proximity to the area of disturbance and will construct new or restore degraded wetlands. If waters or wetlands cannot be restored on-site or in the immediate vicinity of the disturbance location, replacement at a nearby off-site location will be provided. The replacement of waters or wetlands will be equivalent to the nature of the habitat lost and will be provided at a suitable ratio to ensure that, at a minimum, there is no net loss of habitat acreage or value. The replacement habitat will be set aside in perpetuity for habitat use. Mitigation ratios to achieve the “no net loss” standard will be determined in consultation with the Corps.</p>		
<p>8. The City would ensure that long-term management of all offsite enhancement, restoration, and creation sites occurs. Within three months of the acquisition of any parcel or easement, a draft management plan would be developed in coordination with the Service. The plan should be finalized within six months and implemented immediately following final signoff. If the conservation sites are transferred to a third party for long-term</p>		

<p>management, then an endowment with sufficient funds (determined using the PAR system or a PAR-like system) would be established subject to availability of funds, unless otherwise negotiated with the receiving party.</p> <p>9. All habitats to be restored, enhanced, created and/or preserved outside of the right-of-way, as stated above, would be managed and preserved in perpetuity. The project proponent would ensure there is a perpetual biological conservation easement over all properties used to offset impacts addressed in this Assessment and these lands would be managed according to a Service-approved Long-Term Management Plan. The perpetual conservation easement and Long-Term Management Plan would be submitted to the Service prior to the start of any restoration, enhancement, or creation activities.</p> <p><i>Conservation Measures for Temporary Vegetation Impacts</i></p> <p>The following apply as offsetting conservation measures for <u>temporary</u> impacts.</p> <p>10. Any planting stock to be brought onto the project site for habitat creation/restoration/enhancement shall certified as weed-free.</p> <p><i>Giant Garter Snake Conservation Measures</i></p> <p>GG51 Implement <i>Standard Avoidance and Minimization Measures During Construction Activities in Giant</i></p>		
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Garter Snake (Thamnophis gigas)
Habitat. (Appendix C).

San Joaquin Kit Fox Conservation Measures

SJKF1 Implement the *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or during Ground Disturbance* (Service 2011; Appendix F).

Western Pond Turtle Conservation Measures

- a. WPT1 A qualified biologist shall be on call during all activities, including groundbreaking, earthmoving, and construction activities that could result in the mortality or injury of western pond turtles.
- b. If at any time a pond turtle is discovered in the construction area by the on-call biologist or anyone else, the on-call biologist shall move the animal to a safe location in suitable aquatic habitat outside of the impact area. The biologist shall monitor translocated animals until safe from induced exposure to predators or other dangers.
- c. Because pond turtles may take refuge within and under cavity-like and den-like structures, such as pipes, and may enter stored pipes and become trapped, all construction pipes, culverts, or similar structures that are stored at a construction site for one or more overnight periods shall be either securely capped prior to

<p>storage or thoroughly inspected by the on-call biologist and/or the construction foreman/manager for these animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a pond turtle is discovered inside or under a pipe by the on-call biologist or anyone else, the on-call biologist shall translocate the animal as previously described.</p> <p>d. To prevent inadvertent entrapment of pond turtles during construction, the on-call biologist and/or construction foreman/manager shall ensure that all excavated, steep-walled holes or trenches more than one-foot deep are completely covered at the close of each working day by plywood or similar materials or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals by the on-call biologist and/or construction foreman/manager. If at any time the on-call biologist or anyone else discovers a trapped turtle, the on-call biologist shall translocate the turtle as previously described.</p> <p>e. To eliminate an attraction for the predators of pond turtles, all food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in solid, closed containers (trash cans) and removed</p>		
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<p>at the end of each working day from the entire construction site.</p> <p>f. If a pond turtle or any turtle that construction personnel believe may be a pond turtle is encountered during project construction, the all work that could cause harm to the turtle shall be halted until the turtle moves, of its own volition, out of the work area and out of harm's way. Alternatively, the qualified biologist may relocate the turtle out of harm's way and into suitable aquatic habitat, as allowed by CDFW.</p> <p>g. The on-call biologist shall translocate the turtle as previously described.</p>		
<p><i>Swainson's Hawk Conservation Measures</i></p> <p>SWHA1 Following the methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000 [Appendix D]), a qualified ornithologist shall conduct surveys during the Swainson's hawk breeding season (i.e., March through August) to determine the locations of active Swainson's hawk nests within a 10-mile radius of the project site. If a potentially active Swainson's hawk nest is present, the biologist will recommend the following:</p> <ul style="list-style-type: none"> ○ A qualified biologist knowledgeable in the biology of the Swainson's hawk shall give a class on the general ecology of the species, covering these topics: 		

	<p>current status, general description, breeding biology, habitat use, and what to do if species is encountered. Information cards will be passed out to work crew and crew is required to sign an attendance roster.</p> <ul style="list-style-type: none"> ○ If a Swainson's hawk nest is known to be within 0.25 mile of a planned activity, a qualified biologist will evaluate any potential effects of the activity. If the biologist determines that the activity would disrupt nesting, a 1000-foot buffer and limited operation period during the nesting season (March 15–June 30) will be implemented. Evaluations will be performed in consultation with the local CDFW representative. 	
SWHA2	<p>Under CDFW mitigation guidelines, loss of suitable foraging habitat within 10 miles of a Swainson's hawk nest site should be mitigated by protecting or creating equally suitable foraging habitat elsewhere within the territory's 10-mile radius (CDFG 1994 [Appendix E]). The acreage of Habitat Management (HM) lands provided would be derived from the following recommendations included in the 1994 CDFG staff report:</p> <ul style="list-style-type: none"> • If the project is determined to be within one mile of an active nest tree, the project proponent shall 	

<p>provide one acre of HM land (at least 10 percent of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90 percent of the HM lands protected by a conservation easement acceptable to CDFW on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's hawk) for each acre of development authorized (1:1 ratio); or</p> <ul style="list-style-type: none"> • One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement (acceptable to CDFW) which allows for the active management of the habitat for prey production on the HM lands) for each acre of development authorized (0.5:1 ratio). • If the project is determined to be within five miles of an active nest tree but greater than one mile from the nest tree, the project proponent shall provide 0.75 acre of HM land for each acre of urban development authorized (0.75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to CDFW) on agricultural lands or other suitable habitats that provide 		
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<p>foraging habitat for Swainson's hawks.</p> <ul style="list-style-type: none"> • If the project is determined to be within 10 miles of an active nest tree but greater than one mile from the nest tree, the project proponent shall provide 0.5 acre of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the CDFG) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's hawks. • Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands). <p><i>Special-Status Bat Species Conservation Measures</i></p> <p>SSBS1 Potential roosting areas on the existing water tank or medium or larger (≥ 12-inch diameter) trees or snags that are selected for trimming or removal will be inspected by a qualified wildlife biologist for presence of potential dens (cavities, entrance holes) suitable for pallid bat or western mastiff bat. Cavities suitable as special-status bat roosts</p>		
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<p>will be examined for roosting bats using a portable camera probe or similar technology. If present, special-status bat roosts (including day and night roosts, hibernacula, and maternity colonies) will be flagged, and construction activities will be avoided within a minimum of 300 feet surrounding each occupied roost.</p> <p>If the site is being used as a winter roost, the action will not take place during the period of hibernation (November 1 to March 1). If the site is being used as a maternity colony, the action will not occur during the maternity roost season (April 1 to August 31). If a non-maternity bat roost is found within the Project Area, the roosting bats will be safely evicted under the direction of a qualified biologist (as determined by a Memorandum of Understanding with CDFW). The qualified biologist will facilitate the removal of roosting bats by:</p> <ul style="list-style-type: none">• Opening the roosting area to allow airflow through the cavity or building (air flow disturbance).• Waiting a minimum of one night for roosting bats to respond to air flow disturbance, thereby allowing bats to leave during nighttime hours when predation risk is relatively low and chances		
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<p>of finding a new roost is greater than in the daytime.</p> <ul style="list-style-type: none">• Disturbing roosts at dusk just prior to roost removal the same evening to allow bats to escape during nighttime hours. <p>1.1.2. Impacts</p> <p>Since the exact location and dimensions are not known at this time, precise impact calculations cannot be determined at this time. Therefore, impacts are discussed qualitatively rather than quantitatively in this BA.</p> <p>1.1.2.1. PERMANENT IMPACTS</p> <p>Permanent adverse impacts that may occur with project implementation are considered irreversible losses of biological resources. Permanent impacts can result from the clearing or grading of biological resources for construction activities. Where Project features are developed (e.g., water tank, standby generator), the feature may permanently replace any vegetation community and plant species that occurred at that location, the extent of which depending on the amount of overlap between new features and existing features.</p> <p>Wildlife may also be killed directly during construction activities or may die as a result of permanent loss of habitat or territory. Construction could potentially result in direct harm of giant garter snake or western pond turtle if these species are present in the wetlands near the existing HUD tank or irrigation canals. San Joaquin kit fox could be injured as a result of crushing or strikes by Project equipment or vehicles. Swainson's hawks could be adversely affected by a loss of foraging</p>		
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<p>habitat. Nesting birds, including Swainson's hawk, could be disturbed by Project construction activities, which could result in mortality to individual hatchlings or complete nest failure.</p> <p>Specific to the Project activities, permanent direct impacts from the proposed Action will be avoided or minimized through the implementation of the Conservation Measures identified in Section 1.1.1. However, the proposed Action has the potential to result in direct, permanent impacts to wetland and upland habitats.</p> <p>The proposed project could permanently impact federally protected wetlands or waters. However, as previously discussed, the precise impacts cannot be calculated at this time. Impacts will be determined during Project implementation. However, permanent impacts to wetland habitats, should they occur, would be mitigated at a 3:1 ratio.</p> <p>Since the majority of the activities proposed for coverage under this BA will be to replace existing structures and facilities, an adverse increase in indirect impacts is not expected. Permanent indirect impacts can include elevated noise from increased human activity after the implementation of the proposed Project, increased erosion, or other types of effects not directly resulting from implementation of a project.</p> <p>1.1.2.2. TEMPORARY IMPACTS</p> <p>Temporary impacts are associated with each of the construction activities being proposed. The majority of impacts from each of the activities will be temporary, direct impacts resulting from trench excavation for pipeline installation and grading for</p>		
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[illegible]