

MEETING AGENDA

The City Council/Successor Agency of the City of Firebaugh
Vol. No.17/12-04

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622
Date/Time: December 4, 2017/6:00 p.m.

CALL TO ORDER

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

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

PRESENTATION

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 6, 2017.

NEW BUSINESS

2. RESOLUTION NO. 17-53 - A RESOLUTION OF THE CITY OF FIREBAUGH APPROVING A CONSULTING AGREEMENT FOR SOCIAL MEDIA MANAGEMENT AUTHORIZING CITY MANAGER TO SIGN SAID AGREEMENT.

Recommended Action: Council receives public comment & approves Res. No. 17-53.

3. THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO CONSIDER THE FACILITY USE REQUEST OF THE RODEO GROUNDS BY CARMEN MURRIETA FOR A JOAQUIN MURRIETA EVENT AS A FUNDRAISER THAT WILL HELP TO BENEFIT A SCHOLARSHIP FUND.

Recommended Action: Council receives public comment & takes action.

4. **RESOLUTION NO. 17-50 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH AUTHORIZING THE CITY MANAGER TO EXECUTE A PROGRAM DEVELOPMENT AGREEMENT WITH OP TERRA ENERGY SERVICES, INC.**

Recommended Action: Council receives public comment & approves Res. No. 17-50.

5. **RESOLUTION NO. 17-51 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH AUTHORIZING THE CITY MANAGER TO EXECUTE A PROPERTY TAX ALLOCATION AGREEMENT WITH THE FRESNO COUNTY FIRE PROTECTION DISTRICT.**

Recommended Action: Council receives public comment & approves Res. No. 17-51.

6. **RESOLUTION NO. 17-52 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH ESTABLISHING THE CITY OF FIREBAUGH DEBT MANAGEMENT POLICY.**

Recommended Action: Council receives public comment & approves Res. No. 17-52.

STAFF REPORTS

PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY

CLOSED SESSION

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, November 30, 2017 at 5:00 p.m. by Rita Lozano Deputy City Clerk.

MEETING MINUTES

The City Council/Successor Agency of the City of Firebaugh Vol. No. 17/11-20

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622
Date/Time: November 20, 2017/6:00 p.m.

CALL TO ORDER Meeting called to order by Mayor Jenkins at 6:01 p.m.

ROLL CALL

PRESENT: Mayor Brady Jenkins
Mayor Pro Tem Felipe Perez
Council Member Marcia Sablan
Council Member Elsa Lopez
Council Member Freddy Valdez

ABSENT:

OTHERS: City Attorney Meggin Boranian; Acting City Manager/Public Works Director, Ben Gallegos; Deputy City Clerk, Rita Lozano; Police Chief, Sal Raygoza, Fire Chief, John Borboa; City Engineer, Mario Gouveia & others.

PLEDGE OF ALLEGIANCE Council Member Jenkins led pledge of Allegiance.

- Motion to move and take action on agenda item # 8 before agenda # 7, motion passed by consensus 5-0 vote.

PUBLIC COMMENT

Bryn Forhan of The Forhan Company, has partnered with Californians for Energy Independence (CEI) and the Fresno County Superintendent to offer "Careers in Energy" program, which is a 59 days of Code Technology and education, computer design technology that offers skills and education to students that wish to seek careers in Energy. Twenty Students from Firebaugh High School, as well as twenty students from Mendota High School participated this year and the hope is to continue offering these classes and more to local students.

PRESENTATION

Ashu Jain, P.E., Senior Manager of Opterra Energy Service provided information about their company, including the services they offer. They completed an analysis of all city owned facilities and provided a proposal on how they can save the city money by replacing equipment and improving energy efficient device at several locations, such as the Senior center, Community Center, City Hall, Fire Department and at the different Well locations. Opterra Energy Service proposal estimates cost of \$ 5.8 million, will finance the city for 20 years @ 3.3 year Interest rate with a possible \$10 million cost savings (guarantee cost savings of 95%). Opterra prepares the financing and RFP documents, if the City would like to include certain banks, please advise Opterra and an RFP would be submitted to them also. If Opterra's recommendations were incorrect, then Opterra would issue a check to the match the difference of their suggested savings listed in the proposal.

CONSENT CALENDAR

1. APPROVAL OF MINUTES – The City Council regular meeting on November 6, 2017.
2. WARRANT REGISTER – Period starting October 1, and ending on October 31, 2017.

October 2017	General Warrants	#35756 - #35872	\$ 308,835.49
	Payroll Warrants	#68799 - #68912	\$ 208,879.68
TOTAL			\$ 517,715.17

Motion to accept consent calendar by Council Member Sablan, second by Council Member Valdez; motion pass by Consensus 5-0 vote.

PUBLIC HEARING

3. ORDINANCE NO. 17-03 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH ESTABLISHING REGULATIONS WITHIN THE FIREBAUGH MUNICIPAL CODE TO IMPLEMENT THE ADULT USE OF MARIJUANA ACT, INCLUDING ALLOWING COMMERCIAL CANNABIS OPERATIONS IN THE M-2 (HEAVY INDUSTRIAL) ZONE, SUBJECT TO A CONDITIONAL USE PERMIT, AND ESTABLISHING DEVELOPMENT STANDARDS FOR SUCH OPERATIONS – SECOND READING.

City Planner Karl Schoettler informed of clarification on age from by Council Member Valdez. The correct age is 21 years old not age 18. No Dispensaries will be allowed with this ordinance. City Attorney Boranian provided an update on Thursdays' State approved regulations, allowing temporary licenses issued by the State, (estimated \$80,000 max-\$12,000 min based on Production). **Public Hearing Opened at 6:44 pm** – Mrs. Marleen Britton, stated if a contained warehouse (for the marijuana facility will operate), is what the council is proposing vs. growth of outdoor farming facility and with the attorney's provided update, I still disagree but feel more comfortable. City Manager Gallegos repeated no outdoor growth is allowed by this proposed ordinance, the plan for any facility that may operate in the city is only for medical purposes. They will have to obey several regulations to operate, such as: Security System, Odor Control, Background checks for all employees, Permits through Planning Commission, which includes notifications to all neighbors in the area for their input prior to issuing a permit, and inside growth, are just a few requirements. Mr. Britton stated his concern of a slippery slope, "It may beginning with Medical Marijuana and can change to something else in the future that could allow dispensaries, and the city does have the option not to allow any form of marijuana businesses." Wanda Breshears agreed with Mr. Britton's statement. **Public Hearing Closed at 6:53 pm.**

Motion to approve Ord. 17-03 by Council Member Valdez, second by Council Member Sablan; motion pass by 4-1 vote. Lopez vote – no.

NEW BUSINESS

4. THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO CONSIDER THE FACILITY USE REQUEST OF THE RODEO GROUNDS BY CARMEN MURRIETA FOR A JOAQUIN MURRIETA EVENT AS A FUNDRAISER THAT WILL HELP TO BENEFIT A SCHOLARSHIP FUND.

Motion to deny by Council Member Lopez, second by Council Member Jenkins; motion pass by Consensus 3-2 vote. Sablan and Perez – vote no.

5. RESOLUTION NO. 17-47 - A RESOLUTION APPROVING A 2017 APPLICATION FOR FUNDING AND THE EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO FROM COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Motion to accept approve Res. No. 17-47 by Council Member Valdez second by Council Member Perez; motion pass by Consensus 5-0 vote.

6. RESOLUTION NO. 17-48 -A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH ACCEPTING BID AND AWARING CONTRACT TO MARKO CONSTRUCTION GROUP, INC. FOR SENIOR CENTER REHABILITATION 15-CDBG-10568.

Motion to accept approve Res. No. 17-48 by Council Member Sablan second by Council Member Valdez; motion pass by Consensus 5-0 vote.

PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY

Motion to enter closed session at 7:08 pm, by Council Member Valdez, second by Council Member Sablan; motion pass by unanimous 5-0 vote.

CLOSED SESSION

8. Government Code Section 54957

PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT: City Manager.

Motion to enter open session at 8:40 pm, motion pass by unanimous 5-0 vote.

ANNOUNCEMENT AFTER CLOSED SESSION: *Nothing to report.*

7. RESOLUTION NO. 17-49 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING APPOINTMENT OF BENJAMIN GALLEGOS TO THE POSITION OF CITY MANAGER.

City Attorney advised of two changes to the contract:

- *page 2, section 2, paragraph A – Council will evaluate the Employee at six months and determine salary increase at least 5% with satisfactory review to Council will evaluate Employee at 6 months and determine whether to adjust the starting salary.*
- *Page 4, section 3, paragraph F – Re: Health Insurance Coverage – Full coverage of premiums for Employee and family with no out of packet cost change to Full coverage of premiums for Employee and Family.*

Motion to approve Res. No. 17-49 by Council Member Lopez, second by Council Member Sablan; motion pass by consensus 5-0 vote.

STAFF REPORTS

- **Police Chief, Sal Raygoza** – Next Meeting November 9, Freddy, Ben and Sal for negotiations on Courthouse with Fresno County. Two Hundred people attended the “Reality Tour” Saturday’s at Firebaugh High School, which is a reenactment of traffic accidents.
- **City Engineer Mario Gouveia** – HUD Tank Update – following Las Deltas District project, State is considering allowing the City to move forward with the HUD Tank upgrades. Application has been submitted. Estimated cost for demo of HUD tank is about \$100,000 to \$200, 000 with about \$3 million to rebuild.
- **Public Works Director, Ben Gallegos** – Pio is out but he stated the credit card machine was ordered so hopefully it will be operating in January. Pio was not able to upload the agenda on the website. If anyone wants to attend LafCO training December 20th, three can attend. Christmas Decorations are going up in town.
- **Council Member Sablan** - Requested a joint meeting with the school board members.
- **Council Member Valdez** – Attended a tour of a few mid-level dispensaries, they were highly secured and staff was professional.

ADJOURNMENT *Motion to adjourn by Councilmember Valdez, second by Councilmember Perez; motion passes by unanimous 5-0 vote at 8:07 p.m.*

RESOLUTION NO. 17-53

A RESOLUTION OF THE CITY OF FIREBAUGH APPROVING A CONSULTING AGREEMENT FOR SOCIAL MEDIA MANAGEMENT AUTHORIZING CITY MANAGER TO SIGN SAID AGREEMENT

WHEREAS, the City of Firebaugh has the need for social media management services; and

WHEREAS, Claudia Solis-Alcala is trained and experienced to provide such services; and

WHEREAS, the Council desires to hire Claudia Solis-Alcala to provide such services; and

WHEREAS, the Council wishes to authorize the City Manager to sign an Agreement with Claudia Solis-Alcala in its behalf.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the governing body of the City of Firebaugh hereby approves the attached Consulting Agreement for Social Media Management with Claudia Solis-Alcala, which is incorporated herein by this reference, and authorizes the City Manager, Benjamin Gallegos, to sign the Agreement in behalf of the City.

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 4th day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Brady Jenkins, Mayor

Rita Lozano, Deputy City Clerk

City of Firebaugh

Claudia Solis-Alcala, Social Media Management

Scope of Work

Objective: Consultant will establish the City of Firebaugh's presence on social media. The goal is to highlight news and upcoming events that are important to city residents. The City (Client) will retain the rights to all content created by the Consultant (Claudia Solis-Alcala) for the Client.

MONTHLY COST

- **Consultation with the City of Firebaugh**
 - Discussion of campaign strategy for upcoming month. I will come up with the topics for each week, unless the Council requests a specific topic
 - Monthly email with follow-up phone call with designated administrator within Firebaugh City Government (currently Pio Martin)
 - \$30 Consultation Fee

- **Social Media Posting**
 - Publish one post per week on Facebook
 - Posts could include the following visual options: photos, raw video or graphics.
 - If client prefers to use specific images, will need to provide artwork 5 days in advance to ensure uniformity and size specifications are appropriate
 - Client must provide info at least 5 days in advance of desired publication/distribution date
 - In the case of an emergency, would need half hour notice
 - \$30 per post

The above services add up to \$900 for first six months. That's an increase of \$200 over the previous six month trial period.

ADVERTISING ON FACEBOOK PAGE

Consultant would like to explore advertising on the City Facebook page. Consultant would like to approach local businesses and ask them about possible interest in using the page as a tool to reach consumers to boost Consultant income.

ADDITIONAL SERVICES AVAILABLE

Additional Services could include:

- Twitter Page Launch and Posting
- Press Release – Creation and distribution
- Facebook Training Workshops for residents

Association Descendants of Joaquin Murrieta Dia De Joaquin Murrieta

Hello Congress Members,

This past year I attended the education luncheon with our members for the fundraiser of the year benefiting the scholarship fund. During the luncheon I was able to address the community and talk about what I hope to accomplish as the president of the association descendance of Joaquin Murrieta. I centered my comments around four major areas that I believe that will be key to the success of our 74,000+ students in Fresno county and around California. Equity, accountability, and connectivity.

Simply put, as a team, we will own the result we attain. We are committed to sharing all the data we generate with everyone because that is the most intellectual honest way to operate. Along with our own members education. I am committed to providing the equable opportunities for our student to be successful. Though our system and after graduation additionally. We our committed as a team to provide equitable facilities across our association so that all students can share similar experiences and opportunity regardless of where the live, the color of their skin, or their income levels. With that I have challenged our members to hold themselves accountable to be lifelong learners. Reflect and improve in any personal areas that need strength, and to only pursuer invest opportunities for kids tied to measurable outcomes. This request is to ensure our investments are creating the biggest opportunities to close the achievement gap of our students. I believe the core of our education with others to foster an environment where people feel safe, respected and can learn. At the highest level possible, even if we potentially disagree on issues is crucially important. Also, dia de Joaquin marreata a great success from 2010-2016 a great success in raising more than \$1,000. Which we will go towards providing our graduating seniors next year scholarships for college for DACA students. To encourage you to visit our Facebook, on ways you can donate to the scholarship fund and help make college dreams come true.

Sincerely
Carmen Murrieta



CITY OF FIREBAUGH



FRESNO COUNTY, CALIFORNIA

1133 "P" STREET
 FIREBAUGH, CALIFORNIA 93622-2547
 (559) 659-2043
 FAX (559) 659-3412

FACILITIES RENTAL AGREEMENT RODEO GROUNDS

In order to pursue with your request, it is important that you read and fill out this form completely.
 Failure to do so may result in a delay on your request.

NAME OF APPLICANT (nombre): <u>Carmen Murrieta</u>		ADDRESS (dirección): <u>706 16th St Kerman</u>	
HOME PHONE (teléfono):	WORK PHONE (trabajo):	RENTAL PURPOSE? (actividad): <u>Event for Joaquin Murrieta</u>	
DATE OF RENTAL (fecha): <u>July 2018</u> <u>14, 15, 16</u>	HOURS THAT FACILITY WILL BE RENTED (horas de renta): From: <u>10</u> <input checked="" type="checkbox"/> am / <input type="checkbox"/> pm To: <u>7</u> <input type="checkbox"/> am / <input checked="" type="checkbox"/> pm		
HOW MANY PEOPLE WILL BE ATTENDING? (cantidad de gente):	PERSON IN CHARGE, INCLUDE TELEPHONE:		
WILL ALCOHOL BE SERVED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IS AN "ABC" LICENSE REQUIRED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TIMES THAT ALCOHOL WILL BE SERVED (horas de alcohol): <input type="checkbox"/> N/A From: <input type="checkbox"/> am / <input type="checkbox"/> pm To: <input type="checkbox"/> am / <input type="checkbox"/> pm		
NUMBER OF OFFICERS TO BE DETERMINED BY POLICE DEPARTMENT (\$32.60 PER HOUR/PER OFFICER)			

- \$1,000 PER EVENT \$250.00 Local Non-Profit \$500.00 Venue Control Fee \$100.00 Fire Hydrant Watering Fee
- A. WILL YOU HAVE MUSIC? YES NO
- B. SPECIFY TYPE OF MUSIC: LIVE BAND DISC JOCKY (DJ) CONCERT

ALL CITY PARKS CLOSE AT 10:00 P.M.
 UNLESS PRIOR ARRANGEMENTS ARE MADE

Applicant agrees and understands that the City is not an insurer and that the insurance concerning personal injury (including death,) and real or personal property loss or damage in, about or on the premises shall be obtained by the applicant. That the amounts charged by the City are not sufficient to warrant or guarantee that no loss, damage, claim or liability will occur or that increased loss, damage, claims or liability will not occur. Applicant does hereby for him/her/itself and all parties claiming under him/her/it release and discharge the City of Firebaugh from and against all said losses, damages, claims or liability.

- Agreed upon Rental and deposits Fee as listed above in accordance with Regulations.
- Due to insurance requirements. NO City Employee will be allowed to donate time to supervise Activities.
- Staff will inspect facilities after clean-up and deposits will be returned with the next scheduled Bills Payable approval (30-45 days.)
- \$1,000,000.00 Insurance Required for City Facilities. The certificate of insurance must be accompanied by the additional insured and/or waiver of subrogation endorsements The Additional Insured should read: "The City of Firebaugh, its officers, officials, employees, agents and volunteers."
- Smoking is NOT permitted on any City property.
- Cancellation: Renter shall notify City no later than thirty (30) days before its scheduled use of the Rodeo Grounds, of its intent to cancel such use, except as provided herein. If RENTER fails to provide such notice, City shall retain RENTER'S fee for use of the Rodeo Grounds. City shall return RENTER'S deposit for use of the Rodeo Grounds in the event of cancellation. Please initial CM
- All activities must shut down one half (1/2) hour early, as per the time listed above in hours of rental. Please initial CM

FAC01	APPLICATION PROCESSING FEE NON-REFUNDABLE	\$	\$ 25.00
FAC03	CLEANING DEPOSIT - REFUNDABLE	\$	\$500.00
FAC01	CABLE CORD (\$50.00)	\$	50
FAC01	FIRE HYDRANT WATERING FEE (\$100.00)	\$	
FAC01	RENTAL FEE IS NON REFUNDABLE	\$	
PD002 5% / PD003	SECURITY REQUIRED _____ X \$32.60 per hour	\$	
	TOTAL DUE:	\$	
	TOTAL PAID:	\$	

APPLICANT'S SIGNATURE: Carmen Murrieta DATE: 10/24/17

City of Firebaugh is an equal opportunity provider and employer.
 Resolution No. 14-25
 FRA_RODEO GROUNDS_04.22.16

Nancy Vaca

From:
Sent: Wednesday, November 8, 2017 3:49 PM
To: Nancy Vaca
Subject: Schedule for 3 day Event July 13,14,15 2018

Hello,
July 13, 2018 Friday

Foods Taqueria Jaliscience Mexican food.
Antonio (559) 486-1351 food for all three days.
Hot dogs, Corn dogs, Popcorn, Cotton candy, Nacho
Snow cones, Frito boats, Ice Cream Truck, Clown, Pony's,
Bounce house,
Piñatas, Mexican Imports, Face printing, DJ music
Editor writer Humberto Garza wrote Book on
Joaquin Murrieta of students that play Mariachis music,
and Folkloric (Mexico), Scholarships and Certificates

July 14, 2018 Saturday

Editor writer Humberto Garza wrote Book on
Joaquin Murrieta of students that play Mariachis music,
House riders (Cabalgata), Jinetes (cowboys), Indian Drummers,
Group Singers, Foods vendors, Caramuzas (girls horse riding)
DJ music, Hot dogs, Corn dogs, Popcorn, Cotton candy, Nacho
Snow cones, Frito boats, Ice Cream Truck, Clown, Pony's,
Bounce house, Taco truck, Bull riding, Piñatas, Face painting
and Folklorico (México), Scholarships and Certificates

July 15, 2018 Sunday

Foods Taqueria Jaliscience Mexican food.
Antonio (559) 486-1351 food for all three days.
Hot dogs, Corn dogs, Popcorn, Cotton candy, Nacho
Snow cones, Frito boats, Ice Cream Truck, Clown, Pony's,
Bounce house,
Piñatas, Mexican Imports, Face printing, DJ music
Editor writer Humberto Garza wrote Book on
Joaquin Murrieta of students that play Mariachis music,
and Folklorico (Mexico), Scholarships and Certificates

Thank You Carmen Murrieta

RESOLUTION NO. 17-50

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
AUTHORIZING THE CITY MANAGER TO EXECUTE A
PROGRAM DEVELOPMENT AGREEMENT WITH OP TERRA ENERGY SERVICES, INC.**

WHEREAS, the City of Firebaugh, has received a Program Development Agreement with Op Terra Energy Services, Inc. for energy assessment recommendations and related administrative services, which is attached and incorporated herein by this reference; and

WHEREAS, the City Council does hereby accept and agrees with the terms and conditions set forth in the Agreement; and

WHEREAS, the City Council wishes to appoint the City Manager as the designated City representative to execute and administer said Agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Firebaugh that it does hereby authorize the City Manager, Benjamin Gallegos, to execute and administer said Agreement.

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 4th day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Brady Jenkins, Mayor

Rita Lozano, Deputy City Clerk

I hereby certify that the foregoing is a full, correct and true copy of a resolution passed by the City Council of the City of Firebaugh, a Municipal Corporation of the County of Fresno, State of California, at a regular meeting held on the 4th day of December, 2017, and I further certify that said resolution is in full force and effect and has never been rescinded or modified.

DATED: _____

Rita Lozano, Deputy City Clerk of the City of Firebaugh

PROGRAM DEVELOPMENT AGREEMENT

This PROGRAM DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of this 4th day of December 2017, between OpTerra Energy Services, Inc. ("OpTerra Energy Services"), having its principal offices at 500 Twelfth Street, Suite 300, Oakland, CA 94607, and the City of Firebaugh, with offices located at 1133 P Street, Firebaugh, CA 93622 ("Firebaugh" and together with OpTerra Energy Services the "Parties" and each of Firebaugh and OpTerra Energy Services a "Party").

WHEREAS, OpTerra Energy Services is an energy services and solutions company with the technical and management capabilities and experience to perform an integrated energy assessment (an "Assessment") and to identify supply-side and/or demand-side energy conservation measures ("ECMs");

WHEREAS, Firebaugh desires to enter into an agreement to have OpTerra Energy Services perform an Assessment in accordance with the scope of work set forth in Attachment A (the "Scope of Work") for the sites listed on Part I of Attachment B (the "Sites"), and to deliver recommendations, described in the Scope of Work, identifying energy improvements and operational changes to be installed or implemented at the Sites (the "Recommendations"); and

WHEREAS, the primary purpose of the Assessment and the Recommendations is to provide an engineering and economic basis for the implementation of the ECMs identified in the Recommendations, in furtherance of which the Parties intend to negotiate and execute a contract providing for, among other things, engineering, procurement, installation, construction and training services (an "Energy Services Contract");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. ASSESSMENT AND RECOMMENDATIONS

OpTerra Energy Services agrees to complete the Assessment and to present Recommendations to Firebaugh within ninety (90) calendar days after the date on which OpTerra Energy Services receives the information listed in Part I of Attachment A (the "Required Information"). Firebaugh agrees to deliver the Required Information to OpTerra Energy Services no later than thirty (30) calendar days after the date hereof.

Firebaugh agrees to assist OpTerra Energy Services in performing the Assessment by (i) providing OpTerra Energy Services with access to key decision makers and stakeholders of [*Customer's full name: i.e., Los Angeles Unified School District*], (ii) providing OpTerra Energy Services its employees and agents, such access to the Sites and other relevant facilities of Firebaugh as OpTerra Energy Services deems necessary and (iii) providing, or causing Firebaugh's energy suppliers to provide, complete and accurate data concerning energy usage and costs related to the Sites and other relevant facilities. OpTerra Energy Services will be entitled to rely upon the accuracy and completeness of all information provided to OpTerra Energy Services by Firebaugh and Firebaugh's energy suppliers. OpTerra Energy Services will promptly provide written notice to Firebaugh if OpTerra Energy Services determines there is any incorrect data included in the information provided by Firebaugh or Firebaugh's energy suppliers, but OpTerra Energy Services will have no obligation to correct or confirm any such information unless otherwise specified in the Scope of Work. Any change(s) in the Scope of Work will be set forth in a writing executed by the Parties.

2. COMPENSATION TO OPTERRA ENERGY SERVICES

Firebaugh will compensate OpTerra Energy Services for the Assessment and the Recommendations by payment to OpTerra Energy Services of a fee (the "Assessment Fee") in the amount of Thirty-Five Thousand Dollars (\$35,000).

The Assessment Fee will be due and payable thirty (30) calendar days after OpTerra Energy Services' submission of the Recommendations; *provided* that if on such thirtieth (30th) calendar day OpTerra Energy Services and Firebaugh are negotiating an Energy Services Contract in good faith, the Assessment Fee will be due ninety (90) calendar days after OpTerra Energy Services' submission of the Recommendations; *provided further*, that if OpTerra Energy Services and Firebaugh execute an Energy Services Contract within ninety (90) calendar days after OpTerra

Energy Services' submission of the Recommendations, the Assessment Fee, and other fees, costs, expenses, disbursements and overhead of OpTerra Energy Services incurred during the Assessment, will be incorporated into the total contract amount payable under such Energy Services Contract.

Each of Firebaugh and OpTerra Energy Services reserves the right to terminate this Agreement at any time during the course of the Assessment, by delivery of written notice to the other. If this Agreement is terminated by Firebaugh, the Assessment Fee will be payable by Firebaugh to OpTerra Energy Services within thirty (30) calendar days of termination. If this Agreement is terminated by OpTerra Energy Services, Firebaugh will have no obligation to pay any portion of the Assessment Fee to OpTerra Energy Services. If OpTerra Energy Services determines that the projected savings from implementation of the ECMs identified during the Assessment cannot result in a paid-from-savings project which complies with California Government Code Sections 4217.10 through 4217.18, the Assessment and this Agreement will be terminated by OpTerra Energy Services.

Any amount not paid when due will, from and after the due date, bear interest at a fluctuating rate equal to the sum of (a) The United States Prime Rate as listed from time to time in the Eastern print edition of the Wall Street Journal® plus (b) 2% per annum. Accrued and unpaid interest on past due amounts (including interest on past due interest) will be due and payable upon demand.

3. INSURANCE

OpTerra Energy Services will maintain, or cause to be maintained, for the duration of this Agreement, the insurance coverage outlined in (A) through (F) below, and all such other insurance as required by applicable law. Evidence of coverage will be provided to Firebaugh via an insurance certificate.

A. Workers' Compensation/Employers Liability for states in which OpTerra Energy Services is not a qualified self-insured. Limits as follows:

- * Workers' Compensation: Statutory
- * Employers Liability: Bodily Injury by accident \$1,000,000 each accident
Bodily Injury by disease \$1,000,000 each employee
Bodily Injury by disease \$1,000,000 policy limit

B. Commercial General Liability insurance with limits of:

- * \$2,000,000 each occurrence for Bodily Injury and Property Damage
- * \$4,000,000 General Aggregate - other than Products/Completed Operations
- * \$4,000,000 Products/Completed Operations Aggregate
- * \$2,000,000 Personal & Advertising Injury
- * \$ 100,000 Damage to premises rented to OpTerra Energy Services

Coverage to be written on an occurrence form. Coverage to be at least as broad as ISO form CG 0001 (04/13) or its equivalent forms, without endorsements that limit the policy terms with respect to: (1) provisions for severability of interest or (2) explosion, collapse, underground hazard.

C. Auto Liability insurance for owned, hired and non-owned vehicles with limits of \$1,000,000 per accident. Coverage to be written on an occurrence form.

D. Professional Liability insurance with limits of:

- * \$1,000,000 per occurrence
- * \$1,000,000 aggregate

Coverage to be written on a claims-made form.

E. Umbrella/Excess Liability Insurance. Limits as follows:

- * \$1,000,000 each occurrence
- * \$1,000,000 aggregate

Coverage terms and limits to apply excess of the per occurrence and/or aggregate limits provided for Commercial General Liability and Professional Liability written on a claims made form. Coverage terms and limits also to apply in excess of those required for Employers Liability and Auto Liability written on an occurrence form.

F. Policy Endorsements.

- * The insurance provided for Workers Compensation and Employers Liability above will contain waivers of subrogation rights against Firebaugh, but only to the extent of the indemnity obligations contained in this Agreement.
- * The insurance provided for Commercial General Liability and Auto Liability above will:
 - (1) include Firebaugh as an additional insured with respect to Work performed under this Agreement, but only to the extent of the indemnity obligations contained in this Agreement, and
 - (2) provide that the insurance is primary coverage with respect to all insureds, but only to the extent of the indemnity obligations contained in this Agreement.

4. INDEPENDENT CONTRACTOR

OpTerra Energy Services, and the agents and employees of OpTerra Energy Services, its subcontractors and/or consultants, are acting in an independent capacity in the performance of this Agreement, and not as public officials, officers, employees, consultants, or agents of the City of Firebaugh for purposes of conflict of interest laws or any other applicable law. This Agreement may not be construed to represent the creation of an employer/employee or principal/agent relationship. OpTerra Energy Services will act in an independent capacity and retain sole discretion in the manner and means of carrying out its activities under this Agreement. OpTerra Energy Services is free to work for other entities while under contract with Firebaugh.

5. ENERGY SERVICES CONTRACT

As it is the intent of Firebaugh and OpTerra Energy Services to pursue cost effective energy retrofits and ECMs at the Sites pursuant to an Energy Services Contract, both Parties agree to enter into good faith negotiations of an Energy Services Contract immediately following completion of the Assessment.

6. WORK PRODUCT

Firebaugh will not, by virtue of this Agreement, acquire any interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or similar items of property which are or may be used in connection with the Assessment or the Recommendations. The Recommendations, and all data, proposals, plans, specifications, flow sheets, drawings, and other work product prepared or produced by OpTerra Energy Services hereunder ("Work Product") and furnished directly or indirectly, in writing or otherwise, to Firebaugh under this Agreement will remain OpTerra Energy Services' property and will be used only in connection with work performed by OpTerra Energy Services. OpTerra Energy Services will be deemed the author and owner of such Work Product and will retain all common law, statutory and other reserved rights, including copyrights. The Work Product may not be used by Firebaugh as a basis for facility construction or implementation of ECMs developed herein by any entity other than OpTerra Energy Services, without the prior written agreement of OpTerra Energy Services. Any unauthorized use of the Work Product will be at Firebaugh's sole risk and without liability to OpTerra Energy Services, and Firebaugh agrees to defend, indemnify and hold harmless, OpTerra Energy Services, its subcontractors, and their directors, employees, subcontractors, and agents from any and all actions, claims, demands, damages, disabilities, fines, penalties, losses, costs, expenses (including consultants' and attorneys' fees and other defense expenses) and liabilities of any nature (collectively, "Losses") associated with or resulting from such use.

7. LIMITATION OF LIABILITY

The liability of a defaulting Party, in connection with this Agreement or any analysis, report, recommendations, or other deliverables provided hereunder, will be limited to direct, actual damages. Neither Party shall be liable to the other Party for any special, indirect, incidental or consequential damages whatsoever, whether in contract, tort (including negligence) or strict liability, including, but not limited to, operational losses in the performance of business such as lost profits or revenues or any increase in operating expense. Additionally, each Party waives any claims for negligence against the other Party to the greatest extent permitted by law. In no event will OpTerra Energy Services be liable to Firebaugh for any Losses which collectively exceed the amount of the Assessment Fee, regardless of whether such amounts arise out of breach of contract, guarantee or warranty, tort, product liability, contribution, strict liability or any other legal theory.

8. NONDISCRIMINATION; COMPLIANCE WITH LAWS

OpTerra Energy Services will comply with all applicable laws, rules, regulations and policies, including, but not limited to, those relating to nondiscrimination, accessibility and civil rights.

The Parties acknowledge and agree that OpTerra Energy Services is not a municipal advisor and cannot give advice to Firebaugh with respect to municipal securities or municipal financial products absent Firebaugh being represented by, and relying upon the advice of, an independent registered municipal advisor. OpTerra Energy Services is not subject to a fiduciary duty with regard to Firebaugh or the provision of information to Firebaugh. Firebaugh will consult with an independent registered municipal advisor about the financing option(s) appropriate for Firebaugh's situation.

OpTerra Energy Services cannot guarantee that Firebaugh will receive funding from any energy efficiency rebate, incentive, and/or loan program(s) (collectively, "Incentive Funds"); OpTerra Energy Services expressly disclaims any liability for Firebaugh's failure to receive any portion of the Incentive Funds, and Firebaugh acknowledges and agrees that OpTerra Energy Services will have no liability for any failure to receive all or any portion of the Incentive Funds.

9. FORCE MAJEURE

Neither Party will be considered to be in default in the performance of any material obligation under this Agreement (other than the obligation to make payments) when a failure of performance will be due to an event of Force Majeure. The term "Force Majeure" will mean any cause beyond the control of the affected Party and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which, despite using commercially reasonable efforts, it has been unable to overcome. Neither Party will be relieved of its obligation to perform if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to remove or remedy within a reasonable time period. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an event of Force Majeure will give prompt written notice of such fact to the other Party.

10. INTEGRATION; AMENDMENT; COUNTERPARTS

This Agreement constitutes the entire contract among the Parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement may not be amended except by a writing executed by both Parties. No oral amendment shall be enforceable, even if supported by new consideration. Except as otherwise provided herein, the terms and provisions of this Agreement will apply to, be binding upon, and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by email shall be effective as delivery of a manually executed counterpart of this Agreement.

11. DISPUTE RESOLUTION; APPLICABLE LAW; VENUE; SEVERABILITY

If a dispute arises out of or relates to this Agreement, or the transaction contemplated by this Agreement (a "Dispute"), either Party may initiate the dispute resolution process set forth in this Section 11 by giving notice to the other Party. Senior executives for the Parties will meet, within thirty (30) calendar days after notice of the Dispute, in an attempt to resolve the Dispute and any other identified disputes or any unresolved issues that may lead to a dispute. If the senior executives are unable to resolve a Dispute or if a senior management conference is not held within the time provided herein, either Party may submit the Dispute to mediation.

If the Dispute is not settled by senior management conference, the Parties will endeavor to settle the Dispute by mediation under the Commercial Mediation Procedures of the American Arbitration Association ("AAA"). Mediation is a condition precedent to arbitration or the institution of legal or equitable proceedings by either Party. Once one Party files a request for mediation with the other Party and with the American Arbitration Association, the Parties agree to conclude the mediation within sixty (60) calendar days after filing the request. Either Party may terminate the mediation at any time after the first session, but the decision to terminate must be delivered in person by the Party's representative to the other Party's representative and the mediator.

If the Dispute is not resolved by mediation within sixty (60) calendar days after the date of filing of the request for mediation, then the exclusive means to resolve the Dispute is final and binding arbitration. Either Party may initiate arbitration proceedings by notice to the other Party and the American Arbitration Association. The following provisions apply to all arbitration proceedings pursuant to this Article: (i) The place of arbitration will be the American Arbitration Association office closest to where the Assessment was performed; (ii) one arbitrator will conduct the arbitral

proceedings in accordance with the Commercial Arbitration Rules and Mediation Procedures (excluding the Procedures for Large, Complex Commercial Disputes) of the American Arbitration Association currently in effect ("Arbitration Rules") (to the extent of any conflicts between the Arbitration Rules and the provisions of this Agreement, the provisions of this Agreement prevail); (iii) the Parties will submit true copies of all documents considered relevant with their respective statement of claim or defense, and any counterclaim or reply (in the discretion of the arbitrator, the production of additional documents that are relevant and material to the determination of the Dispute may be required); (iv) the arbitrator does not have the power to award, and may not award, any punitive, indirect or consequential damages (however denominated); all arbitration fees and costs are to be shared equally by the parties, regardless of which Party prevails, and each Party will pay its own costs of legal representation and witness expenses; (v) the award must be in the form of a reasoned award; (vi) the Dispute will be resolved as quickly as possible, and the arbitrator will endeavor to issue the arbitration award within six (6) months after the date on which the arbitration proceedings were commenced; and (vii) the award will be final and binding and subject to confirmation and enforcement proceedings in any court of competent jurisdiction.

If any term of this Agreement is declared by a court to be illegal, invalid or unenforceable, the legality, validity and enforceability of the other terms of this Agreement will not be affected or impaired thereby, and the rights and obligations of the Parties will be enforced as if the illegal, invalid or unenforceable term were revised to the minimum extent necessary to make such term legal, valid and enforceable.

[the Parties' signatures appear on the following page]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto subscribe their names to this Agreement.

OPTERRA ENERGY SERVICES:

FIREBAUGH:

OpTerra Energy Services, Inc.

City of Firebaugh

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

ATTACHMENT A
SCOPE OF WORK

I. Required Documents (Needed to Proceed)

A. Firebaugh will provide the following detailed documentation:

1. Most recent three (3) years of audited financial statements.
2. Actual utility company invoices for all utilities serving the Sites, for a minimum of two (2) years, and preferably three (3) years, immediately prior to the date hereof, with, beginning with the most recently completed month.
3. Utility company demand interval recordings of 15/30-minute electrical demand for characteristic months of the year, where available.
4. Record drawings (AutoCAD or hard copy) for the Sites:
 - a. electrical
 - b. mechanical
 - c. structural
 - d. modifications and remodels
 - e. site landscaping
5. AutoCAD or hard copy of 8 1/2" x 11" or 11" x 17" floor and roof plans of all Sites, as well as information on the age, type and condition of buildings and roofs.
6. A list of key contacts at each Site, including Firebaugh personnel knowledgeable of the electrical, HVAC, lighting and controls systems.

II. Scope of Work

The Integrated Energy Assessment (the "Assessment") will be performed as described below:

- A. Perform detailed review of documents delivered above.
- B. Perform site surveys to identify potential ECMs and distributed/renewable generation technologies including proposed locations and potential improvements to the working environment. Survey consists of:
 1. Site walk to observe and capture data on energy using equipment including data regarding nameplate, condition, and operating parameters.
 2. Shading analysis
 3. Data logging if necessary
- C. Perform Utility Analysis and Solar Photovoltaic Production Analysis:
 1. Identify current rate schedule and analyze electrical usage and model load profile for each site
 2. Determine expected solar photovoltaic production curve for proposed sites
 3. Overlay electrical load profile with expected solar photovoltaic production curve to "right size" the solar systems and identify rate restructuring opportunities
- D. Prepare a post-inspection status update to present preliminary findings.
 1. Calculate energy use and cost for all viable ECMs: Calculation methodology will be determined by OpTerra Energy Services, and may include spreadsheet analysis or other accepted tools following the methodology of ASHRAE or other nationally recognized authority and shall be based on sound engineering principles
 2. Operational and maintenance savings, if any, will be identified as a separate line item.
 3. Prepare a proposed "Project Cost" and a list of "Services to Be Provided," in anticipation of OpTerra Energy Services and Firebaugh entering into an Energy Services Contract to design, construct, install, and monitor the proposed ECMs. The proposed Project Cost is conditioned on prompt execution of the Energy Services Contract and the condition that hazardous substance or abnormal subsurface/soil condition issues are not present.
 4. Provide the financial analysis and the Energy Services Contract to Firebaugh.

5. Meet with Firebaugh to review the options proposed and assemble a package of options which is compatible with Firebaugh's investment and infrastructure improvement goals and review the project cost and list of services to determine next steps.

III. Technologies to be Considered:

- A. The technologies listed below will be considered during the performance of assessments:
 1. LED lighting and control upgrades
 2. HVAC upgrades/replacements/addition
 3. VFD upgrades
 4. Solar photovoltaic projects
 5. Water meter installations
 6. Construction of new building

ATTACHMENT B
FIREBAUGH SITE INVENTORY

PART I: SITES INCLUDED IN ASSESSMENT

Building Name	Address (All sites in Firebaugh, CA 93622)	Square Feet
City Sites with Targeted ECMs		
Sewer Plant	SW SW SW 34 12 14	NA
Water Site #2	LEVEE & VASQUEZ DR WATER	NA
Water Site #1 - Water Booster Pump	1/2 MI N/O ROAD 7-1/2, ES SAN JOAQUIN RIVER	NA
Booster Pump	NW NW 33-12-14	NA
75HP	NW NW 28-12-14	NA
Well Site #16	1/2 MI N/O AVE 7, E/O SAN JOAQUIN RIVER	NA
Well #11 - 60HP PUMP PARK	ES CITY PARK AT 16TH	NA
Main Lift Station	SE SE 20 12 14	NA
Well Site #15	1/2 MI N/O AVE 7, E/O SAN JOAQUIN RIVER	NA
Well #17	NE SW SE 28 12 14	NA
Fire Department (City Hall)	1575 11th Street	9,220
Water Pump	SW SW 34-12-14	NA
City Hall	1133 P Street	3,450
Head Start	1777 Thomas Conboy Avenue	1,740
Learning Center	1668 11th Street	2,240
Senior Center	1601 Thomas Conboy Avenue	2,467
Public Works	1666 11th Street	3,200
Rodeo Park Lighting	SW NW SEC 28-12-14	NA
Communication Tower	1666 11th Street	NA

PART II: SITES NOT INCLUDED IN ASSESSMENT

Sites not mentioned above

RESOLUTION NO. 17-51

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROPERTY TAX ALLOCATION
AGREEMENT WITH THE FRESNO COUNTY FIRE PROTECTION DISTRICT**

WHEREAS, the City of Firebaugh, has received a Property Tax Allocation Agreement with Fresno County Fire Protection District for property tax allocation and related administrative services, which is attached and incorporated herein by this reference; and

WHEREAS, the City Council does hereby accept and agrees with the terms and conditions set forth in the Agreement; and

WHEREAS, the City Council wishes to appoint the City Manager as the designated City representative to execute and administer said Agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Firebaugh that it does hereby authorize the City Manager, Benjamin Gallegos, to execute and administer said Agreement.

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 4th day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Brady Jenkins, Mayor

Rita Lozano, Deputy City Clerk

I hereby certify that the foregoing is a full, correct and true copy of a resolution passed by the City Council of the City of Firebaugh, a Municipal Corporation of the County of Fresno, State of California, at a regular meeting held on the 4th day of December, 2017, and I further certify that said resolution is in full force and effect and has never been rescinded or modified.

DATED: _____

Rita Lozano, Deputy City Clerk of the City of Firebaugh

**PROPERTY TAX ALLOCATION
AGREEMENT BETWEEN
THE CITY OF FIREBAUGH
AND
THE FRESNO COUNTY FIRE PROTECTION DISTRICT**

This Property Tax Allocation Agreement ("Agreement") is entered into and effective _____, 2017 ("Effective Date"), between the City of Firebaugh, a California municipal corporation ("City") and the Fresno County Fire Protection District ("District"), a local fire protection district organized and existing as a California Special District under provisions of the Fire Protection District Law of 1987 (Health & Safety Code Section 13800 *et seq.*) with respect to the following Recitals;

RECITALS

WHEREAS, the District is the primary provider of fire suppression, prevention, rescue, emergency medical services and hazardous material emergency response and other services relating to the protection of lives and property ("Fire Protection Services") within its territorial limits, which includes areas near and adjacent to the incorporated portions of the County of Fresno ("County"), including the City. Current District boundaries are set forth in **Exhibit 1**, attached and incorporated by this reference. The District also provides Fire Protection Services to certain incorporated cities and substantial portions of unincorporated areas within the County; and

WHEREAS, the City is the provider of Fire Protection Services within its corporate limits; and

WHEREAS, the District's primary source of funding comes from general purpose *ad valorem* property tax revenue from all real property within its territory (property taxes); and

WHEREAS, through annexation to the City and detachment from the District, the involved affected territory with resulting development places increased service demands on the District's remaining service area. Accordingly, although District no longer services properties that annex into the City and detach from the District, District wide service obligations and regional support are not reduced commensurately and have historically increased. To address the impact of the resulting loss of property tax revenue on District facilities, equipment and personnel and partially mitigate impacts upon the District from annexations and detachments, Fresno County Local Agency Formation Commission ("LAFCo") policy requires the City and District to reach an agreement governing the transition of Fire Protection Services: and

WHEREAS, for the past twenty (20) years the District and the incorporated

cities in the County have operated under transition agreements, the most recent covering the last ten (10) years 2000 to 2010, under which City agreed to pay District a lump sum of money upon annexation and detachment of property reflecting a percentage of property taxes District would have received had the property not been annexed for a period of ten (10) years; and

WHEREAS, the District and City agree to enter into a new agreement under which the City will submit applications for reorganization in which the affected territory would detach from the District and the District will continue to receive the "base year allocation (BYA) of property taxes" from the affected territory; and

WHEREAS, the intent of this Agreement is to apply to all unincorporated areas that are within the jurisdictional boundaries of the District which may be subject to annexation to the City and detachment from the District subject to such modification as may be applicable to the involved affected territory in subsequent annexations and detachments.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Effect of Recitals. The foregoing Recitals are incorporated in, and are a part of this Agreement.
2. Allocation and Payment of Property Taxes.

a. Upon the effective date of annexation of the involved property ("Affected Territory") into the City and detachment of the Affected Territory from the District, the real property tax imposed on the Affected Territory, collected and allocated by the County for the benefit of the District ("Base Year Allocation" or "BYA") shall continue to be collected by the County from the City's portion of real property taxes, and the County shall allocate and pay the BYA for the Affected Territory to the District for a period of ten (10) years from the effective date of the specific reorganization. The BYA shall include any increase up to two percent (2%) per annum imposed by the County in accordance with Article XIII A of the State Constitution. Other than a potential up to 2% annual increase in the BYA, the District will not be eligible to receive any increase in the BYA. The BYA to be retained by County hereunder shall be in accordance with the tax allocation rate schedule provided to County by District during the term of this Agreement. This BYA shall not affect any allocation otherwise due the County.

For the purposes of this Agreement, the effective date of annexation/detachment and the date to be used for when the tax reallocation to District commences, shall be the date upon which the annexation/detachment of the involved property is recorded with the County Recorder and California State Board of Equalization consistent with applicable law.

Exhibit 2, attached and incorporated by this reference, sets forth an example of the calculation.

District shall be responsible for creating the tax allocation rate schedule and providing City the ability for review prior to making arrangements with the County to allocate the BYA. Any fee charged by the County for collection of or retention and payment of the BYA shall be charged on a *pro rata* basis to the District. District and City agree to enter into supplemental agreements or instructions with the County for this purpose.

b. Should the County fail to pay directly to the District the BYA due the District, but instead include it in the City's portion of the payment by the County, the District shall send written notice to City to pay the applicable BYA to the District. Such notice shall include the applicable tax allocation rate schedule showing the BYA due the District. City shall send the applicable payment to District within fourteen (14) days after the City's receipt of the District's notice and tax allocation rate schedule. In the event the City does not pay to the District the applicable BYA due the District within said fourteen (14) day period, the amount due the District shall be assessed interest at the legal rate commencing on the fifteenth (15th) day after the City's receipt of the District's notice and tax allocation rate schedule. The City's failure to make the allocated monetary payment amount due the District within the time period set forth in this subparagraph 2a. shall be considered a material breach of this Agreement.

c. The City expressly waives any statute of limitations defense with respect to payment of the allocation amount set forth in this Agreement.

3. Term. The term of this Agreement shall be for a period of ten (10) years from the Effective Date, except that obligations which by the terms expressed herein are intended to continue beyond the term of this Agreement shall continue until satisfied.

4. Affect of Annexations. Upon annexation of affected properties to City, those properties shall detach from the District, and all Property Taxes shall be allocated consistent with Agreement section 2 and existing laws, rules, policies and procedures established in the County, subject to any applicable agreement between City and the County.

5. LAFCo Compliance. District and City agree that this Agreement is intended to satisfy the intent and purpose of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

6. Non Opposition to Annexations. District represents and agrees that during the term of this Agreement, it will not oppose further annexation to the City. This District agreement does not extend to modifications to the City Sphere of Influence or required Municipal Service Reviews adopted by the Fresno County LAFCo.

7. Accounting. District and City agree that their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. District and City agree to maintain such records for a possible audit for a minimum of four (4) years from the recording date of an annexation to the City and to allow access to such records for an audit during normal business hours.

8. Termination.

a. Termination Upon Expiration. This Agreement shall terminate upon expiration of its Term.

b. Termination Due to Invalidity. Should any material portion of this Agreement be declared invalid or inoperative by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

c. Termination Due to Material Breach: Right to Cure. This Agreement may be terminated by either party for a material breach and a failure to cure that breach within thirty (30) days after receipt of a notice to cure.

d. Termination Due to Change in Law. It is mutually understood and agreed that this Agreement shall terminate immediately and shall be of no further force and effect should substantial substantive changes occur in such statutory scheme or successor statutory schemes (whether by legislative or judicial action) which negate or frustrate the fundamental reasons or tenets of this Agreement, such termination to be in the entirety. Any party contending this section applies shall give written notice of termination pursuant to this section, which notice shall include an explanation of the reason(s) for such termination.

9. Renewal of Agreement. Within 60 days after the date of commencement of the ninth year of this Agreement, the District and the City agree to meet and negotiate in good faith, in an attempt to agree upon the terms and conditions of an extension of this Agreement consistent with applicable law at the time.

10. Remedies for Breach of Agreement. In addition to termination of this Agreement for a material breach, the parties may exercise any other remedy available to them at law or in equity, including specific performance, injunctive relief, and writ of mandate.

11. Dispute Resolution. If any dispute arises regarding the interpretation or application of this Agreement or any determination or calculation thereunder, the parties agree upon the request of either of them to meet and attempt to resolve the same amicably for a period not to exceed thirty (30) days.

If the dispute is not otherwise resolved, and absent the need for emergency relief or to meet a statute of limitations, the parties agree to enter into mediation before initiating litigation. The parties shall mutually agree upon a mediator and each party

shall pay one half (1/2) the cost of the mediator and bear their own costs for the mediation. The mediation shall be completed within sixty (60) days of notice of the intent to undergo mediation. If the mediation is not completed within sixty (60) days of notice, a party may initiate litigation. The parties shall act in good faith and with due diligence to timely complete the mediation.

If litigation is commenced before mediation due to one of the reasons mentioned above, the parties agree to immediately commence and complete mediation within sixty (60) days of the commencement of litigation as evidenced by the filing in court of a formal complaint, petition, or similar document.

12. Modification. This Agreement may be modified or amended only by a writing duly authorized and executed by the City and District.

13. Enforcement. The City and District each acknowledge that this Agreement cannot bind or limit themselves or each other or their future governing bodies in the exercise of their discretionary legislative power except as the Agreement provides. However, each binds itself that it will insofar as is legally possible, fully carry out the intent and purposes hereof, if necessary, by administrative and ministerial action independent of that legislative power and that this Agreement may be enforced by injunction or mandate or other writ to the full extent allowed by law.

14. Integration. This Agreement is intended to be an integrated agreement and supersedes any and all previous negotiations proposals, commitments, writings and understandings of any nature whatsoever between the City and the District as to the subject matter of this Agreement.

15. Notices. All notices, requests, determinations or other correspondence required or allowed by law or this Agreement to be provided by the parties shall be in writing and shall be deemed given and received when delivered to the recipient by first-class mail (or an equal or better form of delivery) at the following addresses:

CITY

City Manager
City of Firebaugh
1133 "P" St.
Firebaugh, CA 93622

DISTRICT

Fire Chief
Fresno County Fire Protection District
210 South Academy Avenue
Sanger, California 93657

By giving notice, either party may change its address for these purposes.

16. Third Parties. This Agreement shall not be construed as or deemed an

agreement for the benefit of any third party or parties, with the exception of the described benefit facilities [and others as may be appropriate] within the affected territory. No other third party or parties shall have any right of action hereunder for any cause of action whatsoever.

17. Subsequent District Agreements. District agrees that if, during the term of this Agreement, District negotiates a property tax allocation and fire services agreement involving an annexation to the municipality and a detachment from the District with any other municipality which contains more favorable terms than this Agreement, District shall notify City within thirty (30) days of such agreement and offer those same terms to City. More favorable terms, means, but is not necessarily limited to, another municipality allocating to District a lower percentage of taxes than City allocates District under Section 2 of this Agreement.

18. Attorney's Fees and Costs. In any action to enforce the provisions of this Agreement or for breach of the Agreement, the prevailing party shall recover from the other party, in addition to any damages, injunctive or other relief, all costs (whether or not allowable as "cost" items by law) reasonably incurred at, before and after trial or on appeal, including without limitation attorneys' and witness (expert and otherwise) fees, deposition costs, copying charges and other expenses.

19. Approval. The parties represent that this Agreement was approved by their respective governing boards at a properly noticed meeting.

20. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue for actions and proceedings between the parties related to this Agreement shall be in the Eastern District of California for any federal action and, unless otherwise agreed by the parties, in Fresno County Superior Court for state actions.

21. Agreement Mutually Drafted. Each party has participated jointly in the drafting of this Agreement, which each Party acknowledges is the result of extensive negotiations between the Parties, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. If an ambiguity or question of intent or interpretation arises, then this Agreement will accordingly be construed as drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any Party to this Agreement by virtue of the authorship of any of the provisions of this Agreement. The captions, headings and table of contents contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

22. Notification to County Auditor-Controller/Treasurer/Tax-Collector. Immediately after the Effective Date of this Agreement, City and District shall furnish a fully executed copy of this Agreement to the Fresno County Auditor-Controller/Treasurer Tax-Collector ("County Auditor") at the address listed below. Any Agreement amendment, upon its becoming effective, shall also be furnished to the County Auditor by the City and the District.

Fresno County Auditor-Controller/Treasurer Tax-Collector
2281 Tulare Street
Fresno, CA 93721

Signatures on next page

IN WITNESS WHEREOF, the parties have entered into this Agreement in Fresno County, California.

FRESNO COUNTY FIRE PROTECTION DISTRICT CITY OF FIREBAUGH

By: _____
Mike Del Puppo, Board President

By: _____
Ben Gallegos, City Manager

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
Frank Del Testa, Board Secretary

By: _____
Rita Lozano, City Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

William D. Ross, District Counsel

Meggin Boranian, City Attorney

Date: _____

Date: _____

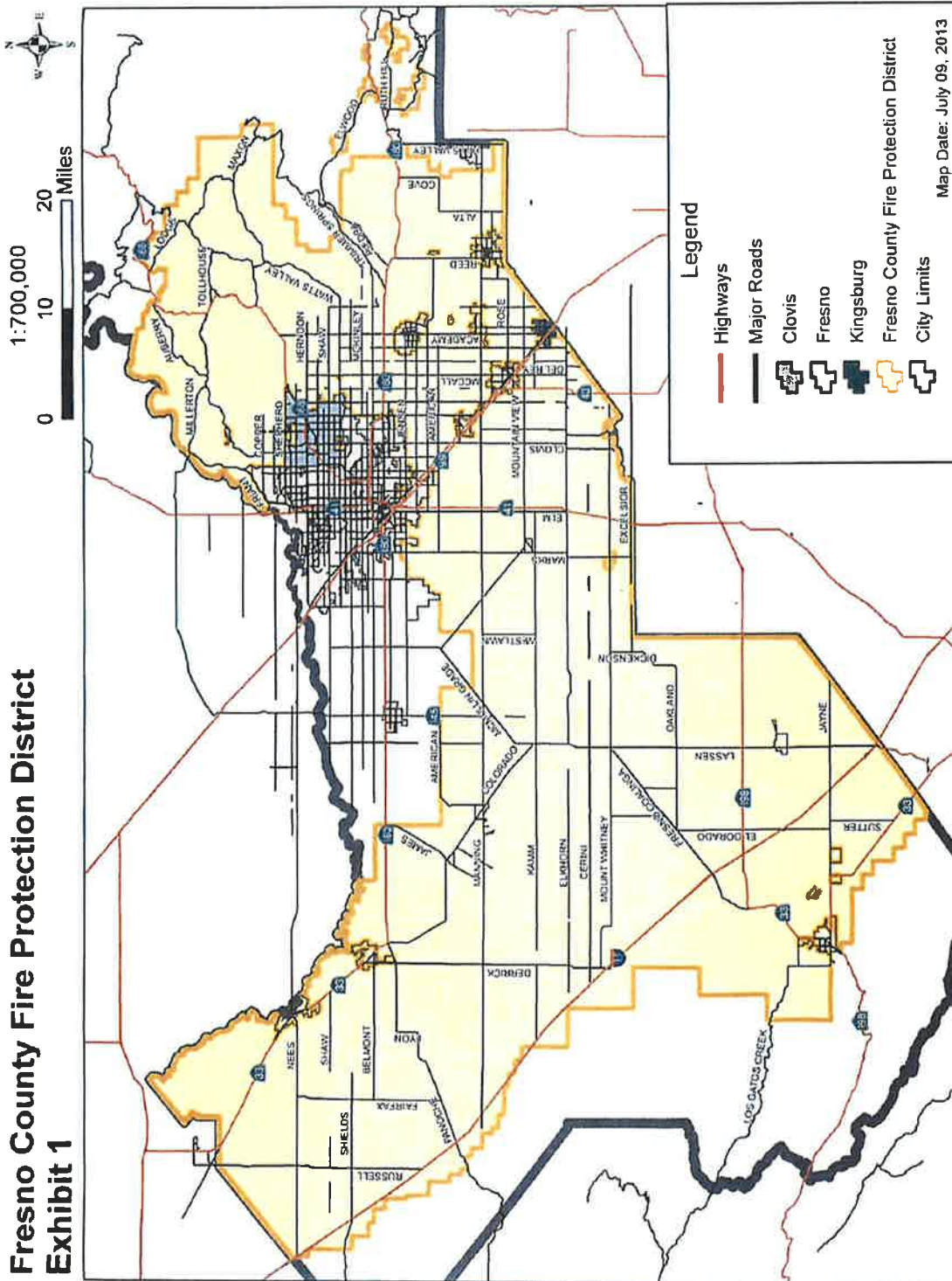


Exhibit 2 City of Firebaugh - Example Base Year Allocation

This agreement provides for an allocation of property taxes to the District for 100% of the Base Year Allocation (BYA) for a period of ten (10) years. BYA to include up to a 2% annual constitutional increase determined by the State Board of Equalization.

*Example Total Assessed Value of Land \$100,000

*Ex. BYA: $(\$100,000 \times .0009948) = \99.48

Year 1	Payment	\$99.48	(add 2%)	100%
Year 2	Payment	\$101.47	(add 2%)	102.00%
Year 3	Payment	\$103.50	(add 2%)	104.04%
Year 4	Payment	\$105.57	(add 2%)	106.12%
Year 5	Payment	\$107.68	(add 2%)	108.24%
Year 6	Payment	\$109.83	(add 2%)	110.41%
Year 7	Payment	\$112.03	(add 2%)	112.62%
Year 8	Payment	\$114.27	(add 2%)	114.87%
Year 9	Payment	\$116.56	(add 2%)	117.17%
Year 10	Payment	\$118.89	(add 2%)	119.51%
Total		\$1,089.28		

This parcel is located in Tax Rate Area (TRA) XXX-XXX with a rate of .09948

*Value is based on current Total Assessed Value of land and is subject to change due to actual reorganization recording date.

Michael Del Puppo
President
Fresno County Fire Protection District

Ben Gallegos
City Manager
City of Firebaugh

Date

Date

STAFF REPORT

AGENDA ITEM: Adopt a resolution required by Senate Bill 1029 to establish a Debt Management Policy to facilitate the issuance of local debt in 2017 and thereafter.

MEETING DATE: December 4, 2017

PREPARED BY: Alfonso Manrique, Gouveia Engineering, Inc.

REVIEWED BY: Ben Gallegos, City Manager

RECOMMENDATION:

City Council to adopt a resolution establishing a Debt Management Policy (DMP) as required by Senate Bill 1029 (SB 1029) and the California Debt and Investment Advisory Commission (CDIAC).

BACKGROUND:

SB 1029, effective January 1, 2017, amended Section 8855 of the California Government Code to require additional information from municipal issuers of local debt. Existing law requires issuers of debt to submit, prior to the sale of any debt issue, a report of the proposed issuance to CDIAC. SB 1029 requires a debt issuer to include certification that the issuer has adopted local debt policies and the proposed debt issuance is consistent with the local debt policy. SB 1029 also requires an annual report on any debt issued after January 21, 2017. To comply with SB 1029, the City will need to implement a Debt Management Policy (DMP), attached as Exhibit A. The resolution is as follows:

- ❖ A resolution establishing the City of Firebaugh DMP.

DISCUSSION:

An established DMP is required by the State Water Resources Control Board (SWRCB) to complete the CWSRF Construction application for improvements to the wastewater treatment plant. The DMP will provide the framework for issuing future local debt in a manner compliant with state regulations.

FISCAL IMPACT:

The adoption of this Resolution has no Fiscal Impact.

ATTACHMENTS:

1. Resolution No. 17-52 - "*RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH ESTABLISHING THE CITY OF FIREBAUGH DEBT MANAGEMENT POLICY.*"

RESOLUTION NO. 17-52

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
ESTABLISHING THE CITY OF FIREBAUGH DEBT MANAGEMENT POLICY**

WHEREAS, the City Firebaugh (City) has issued bonds or other financing obligations (collectively, local debt) subject to the filing or reports with the California Debt and Investment Advisory Commission (CDIAC) pursuant to Section 8855 of the California Government Code (Section 8855); and

WHEREAS, Senate Bill 1029 (SB 1029), effective January 1, 2017, amended Section 8855 to augment the information that must be provided by municipal issuers of local debt to CDIAC; and

WHEREAS, prior to SB 1029, Section 8855 required municipal issuers of local debt to file a Report of Proposed Debt at least 30 days prior to the sale of any local debt issue; and

WHEREAS, SB 1029 amends the requirements of the Report of Proposed Debt Issuance to require that this report include a certification by the municipal issuer (the City) that it has adopted local policies concerning the use of local debt and that the proposed local debt issuance is consistent with those policies; and

WHEREAS, SB 1029 further requires that the local debt policy subject to the aforementioned certification must include all five of the following elements: (1) the purpose for which the debt proceeds may be used; (2) the types of debt that may be issued; (3) the relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable; (4) policy goals related to the issuer's planning goals and objectives; (5) the internal control procedures that the issuer has implements, or with implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use; and

WHEREAS, the City will be an issuer of local debt in 2017 for which a Report of Proposed Debt Issuance, including the aforementioned certification, will need to be filled with CDIAC; and

WHEREAS, to facilitate issuance of local debt in 2017 and thereafter, and the ability of the City to make necessary local debt policies certification required in connection with subdivision (i) of Section 8855, as amended by SB 1029, the City Council of the City of Firebaugh desires to adopt a Debt Management Policy; and

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

1. The foregoing recitals are true and correct.

2. The Debt Management Policy attached hereto as Exhibit "A", is hereby approved and adopted and shall be made applicable to all local debt issued by or on behalf of the City.
3. The City Manager and all other City officials involved in managing local debt are hereby authorized and directed to comply with the policies set forth in Exhibit "A".
4. The Resolution shall take effect immediately upon adoption.

Passed and adopted this 4th day of December 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Approved:

Attest:

Brady Jenkins, Mayor
City of Firebaugh

Rita Lozano, Deputy City Clerk
City of Firebaugh

ATTEST:

I, hereby certify that the forgoing resolution was regularly introduced, passed and adopted at a regular meeting of the City Council of the City of Firebaugh this 4th day of December 2017.

Rita Lozano, Deputy City Clerk
City of Firebaugh

EXHIBIT A

DEBT MANAGEMENT POLICY

This Debt Management Policy (Debt Policy) of the City of Firebaugh (the Issuer) was approved by the Issuer's City Council on December 4, 2017. The City Council may amend the Debt Policy, as it deems appropriate from time to time in the prudent management of the debt of the Issuer. The Debt Policy applies to the Issuer and all subordinate entities of the Issuer for which the City Council serves as the governing board.

This Debt Policy is intended to comply with Senate Bill 1029 (SB 102), effective January 1, 2017, and shall govern all debt undertaken by the Issuer.

The City Council shall fix charges for commodities or services furnished by any revenue producing utility as will pay all expenses of the Issuer, or such portion as the City Council determines justly apportionable to such utility, including:

1. Salaries, office expenses, and other disbursement.
2. The operating expense of each utility.
3. The interest of any indebtedness incurred for acquisition, construction, and completion of each utility.
4. Provisions for funds to pay principal of any debts as they become due.
5. Provisions for an appropriate fund for repairs, replacements, and betterments.

It is the intent of the City Council that the Issuer pay all such charges and expenditures and the interest and principal of its debt from the revenues derived from the operation of public utilities as well as appropriate assessments authorized for specific debt.

Capital Financing

1. The Issuer will consider the use of debt financing only for one-time capital improvement projects when project revenues or specific resources will be sufficient to service the long-term debt.
2. Debt financing will not be considered appropriate for any recurring purpose such as current operating and maintenance expenditures. The issuance of short-term instruments such as revenue, tax, or bond anticipation notes is excluded from this limitation.
3. Capital improvements will be financed primarily through user fees, service charges, assessments, special taxes, or developer agreements when benefits can be specifically attributed to users of the facility.
4. The Issuer will use the following criteria to evaluate pay-as-you-go versus long-term financing in funding capital improvements:

Factors Favoring Pay-As-You-Go Financing

- a. Current revenues and adequate fund balances are available or project phasing can be accomplished.
- b. Existing debt levels adversely affect the Issuer's credit rating.
- c. Outside funding sources are not available for a specific project.

Factors Favoring Long Term Financing

- a. Revenues available for debt service are deemed sufficient and reliable so that long-term financings can be marketed with investment grade credit ratings.
- b. Other sources such as low interest loans and/or grant funding is available for specific projects.
- c. Market conditions present favorable interest rates and demand for Issuer financings.
- d. A project is mandated by state or federal requirements, and resources are insufficient or unavailable.
- e. The project is immediately required to meet or relieve capacity needs and current resources are insufficient or unavailable.
- f. The life of the project or asset to be financed is 10 years or longer.

Debt Management

1. The Issuer will avoid the general fund to secure long-term financings except when marketability can be significantly enhanced.
2. An internal feasibility analysis will be prepared for each long-term financing, which analyzes the impact on current and future budgets for debt service and operations.
3. The Issuer will generally conduct financings on a competitive basis; however, negotiated financings may be used due to market volatility or the use of an unusual or complex financing or security structure.
4. Staff of the Issuer will monitor all forms of debt annually coincident with the Issuer's Financial Plan preparation and review process and report concerns and remedies, if needed, to the Board of Directors.
5. The Issuer will diligently monitor its compliance with bond covenants and loan conditions to ensure its adherence to federal arbitrage regulations.
6. The Issuer shall maintain rates, charges, and assessments sufficient to generate revenues in the amounts necessary to cover operation and maintenance costs and shall ensure the net revenues are equal to at least 1.10 times the annual debt service in each fiscal year.

Accounting Policy

1. The Issuer will establish and maintain accounting systems according to Generally Accepted Accounting Principles (GAAP), standards of the Government Finance Officers Association (GFOA), and the National Committee on Governmental Accounting.
2. An annual audit will be performed by an independent public accounting firm that will issue an official opinion on the annual financial statements detailing areas that need improvement. Target debt ratios will be annually calculated and included in the review of financial trends. Total indebtedness including direct and overlapping debt will be analyzed in determining financial condition.
3. Full disclosure will be provided in the financial statements and bond representations.
4. Financial systems will be maintained to monitor expenditures and revenues on a monthly basis with thorough analysis and adjustment (if required) at mid-year.
5. All revenue collections will be consolidated under finance and be audited at least annually.

Independent Disclosure Counsel

The following criteria will be used on a case-by-case basis in determining whether the Issuer should retain the services of a bond and/or disclosure counsel in conjunction with specific project financing:

1. The Issuer will generally not retain the services of an independent disclosure counsel when all the following circumstances are present:
 - a. The revenue source for repayment is under the management or control of the Issuer such as general obligation bonds, revenue bonds, lease-revenue bonds or certificates of participation.
2. The Issuer will consider retaining the services of a bond or disclosure counsel when one or more of the following circumstances are present:
 - a. The financing will be negotiated, and the funding agency or underwriter has not separately engaged an underwriter's counsel for disclosure purposes.
 - b. The revenue source for repayment is not under the management or control of the Issuer, such as land-based assessment districts, tax allocation bonds, or conduit financings.
 - c. The bonds will not be rated or insured.
 - d. The funding agency, bond counsel, or underwriter requires the Issuer to retain an independent disclosure counsel based on the circumstances of the financing.

Land-Based Financings

1. *Public Purpose.* There will be clearly articulated public purpose in forming an assessment or special tax district in financing public infrastructure improvements. This may include a finding by the City Council as to why this form of financing is preferred over other funding options such as impact fees, reimbursement agreements, or direct developer responsibility for the improvements.
2. *Eligible Improvements.* Except as otherwise determined by the City Council when proceedings for district formation are commenced, preference in financing public improvements through a special tax district shall be given for those public improvements that help achieve clearly identified community facility and as set forth in key policy documents such as the General Plan, Specific Plan, Facility or Infrastructure Master Plans, or Capital Improvement Plan. Such improvements include study, design, construction and/or acquisition of:
 - a. Public safety facilities.
 - b. Water supply, distribution, and treatment systems.
 - c. Waste collection and treatment systems.
 - d. Fire protection equipment and systems.
 - e. Parks, trails, community centers, and other recreational facilities.
 - f. Other governmental facilities and improvements such as offices, information technology systems, and telecommunication systems.