

MEETING AGENDA

The City Council/Successor Agency of the City of Firebaugh

Vol. No.18/12-17

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622
Date/Time: December 17, 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

PRESENTATION:

1. **RESOLUTION NO. 18-63 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH CANVASSING AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON NOVEMBER 6, 2018.**

Recommended Action:

City Council approves and adopts Resolution No. 18-63.

REORGANIZATION

2. **REORGANIZATION OF CITY COUNCIL.**

- A. Mayor
- B. Mayor Pro Tem

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.

3. **APPROVAL OF MINUTES – The City Council regular meeting on December 3, 2018.**

4. **WARRANT REGISTER – Period starting November 1, and ending on November 30, 2018.**

November 2018	General Warrants	#37546 - #37582	\$ 553,079.73
	Payroll Warrants	#70230 - #70330	\$ 219,882.61
TOTAL			\$ 772,962.34

NEW BUSINESS

5. **RESOLUTION NO. 18-61 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT WITH CONSULTANT FOR THE PROVISION OF ELECTRIC MANAGEMENT SERVICES.**

Recommended Action: Council receives public comment & approves Res. No. 18-61.

6. **RESOLUTION NO. 18-62 - A RESOLUTION OF THE CITY OF FIREBAUGH APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES AS CITY ATTORNEY.**

Recommended Action: Council receives public comment & approves Res. No. 18-62.

7. **REVIEW AND DISCUSS SQUARE FOOTAGE RATE OF ORDINANCE NO. 18-02 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH (1) AMENDING MUNICIPAL CODE SECTION 25-29.2 TO CLARIFY COMMERCIAL CANNABIS ACTIVITIES IN THE M-2 ZONES; (2) REPEALING MUNICIPAL CODE SECTION 25-41.13 AND REPLACING IT WITH A NEW CHAPTER 25.5-1 TO ESTABLISH A NEW "CANNABIS CONTROL ORDINANCE," INCLUDING A REGULATORY FRAMEWORK FOR COMMERCIAL CANNABIS OPERATIONS AND PERSONAL USE CULTIVATION (MEDICAL AND RECREATIONAL/ADULT USE); AND (3) AMENDING MUNICIPAL CODE SECTION 25-67.3 "DEFINITIONS" TO DELETE AND MOVE CANNABIS-RELATED DEFINITIONS TO MUNICIPAL CODE SECTION 25-41.13. SECOND READING.**

Recommended Action: Council receives public comment & give staff direction.

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, December 14, 2018 at 5:00 p.m. by Rita Lozano Deputy City Clerk.

RESOLUTION NO. 18-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH CANVASSING AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON NOVEMBER 6, 2018

WHEREAS, on Tuesday, the 6th day of November 2018, a General Election was held in the City of Firebaugh in accordance with the law, and the votes there from were received and canvassed, and the results thereof were ascertained, determined and declared valid in all respects by the Fresno County Registrar of Voters as required by law.

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

Total Votes Cast for Council Seats - 2,642

FIREBAUGH CITY COUNCIL

	Total	
Number of Precincts	3	
Precincts Reporting	3	100.0 %
Vote For	3	
Times Counted	1313/2642	49.7 %
Total Votes	1952	
Times Blank Voted	35	
Times Over Voted	4	
Number Of Under Votes	596	
<hr/>		
MARCIA SABLAN	697	35.71%
FELIPE PEREZ	548	28.07%
GEORGE CONKLIN	452	23.16%
DAVID VAN PELT	238	12.19%
Write-in Votes	17	0.87%

FIREBAUGH CITY CLERK – Write-in Votes 113

FIREBAUGH CITY TREASURER – Write-in Votes 112

The foregoing resolution was passed and adopted by the City Council of the City of Firebaugh at a regular meeting duly held on the 17th day of December 2018, by the following vote:

AYES: Council Member(s)
NOES: Council Member(s)
ABSTAIN: Council Member(s)
ABSENT: Council Member(s)

APPROVED:

ATTEST:

Felipe Perez, Mayor

Rita Lozano, Deputy City Clerk

CERTIFICATE OF COUNTY CLERK TO RESULTS OF THE CANVASS

Received
DEC 10 2018
City of Firebaugh

FIREBAUGH CITY COUNCIL

	Total	
Number of Precincts	3	
Precincts Reporting	3	100.0 %
Vote For	2	
Times Counted	1313/2642	49.7 %
Total Votes	1952	
Times Blank Voted	35	
Times Over Voted	4	
Number Of Under Votes	596	
MARCIA SABLAN	697	35.71%
FELIPE PEREZ	548	28.07%
GEORGE CONKLIN	452	23.16%
DAVID VAN PELT	238	12.19%
Write-in Votes	17	0.87%

FIREBAUGH CITY CLERK

	Total	
Number of Precincts	3	
Precincts Reporting	3	100.0 %
Vote For	1	
Times Counted	1313/2642	49.7 %
Total Votes	113	
Times Blank Voted	1200	
Times Over Voted	0	
Number Of Under Votes	0	
Write-in Votes	113	100.00%

FIREBAUGH CITY TREASURER

	Total	
Number of Precincts	3	
Precincts Reporting	3	100.0 %
Vote For	1	
Times Counted	1313/2642	49.7 %
Total Votes	112	
Times Blank Voted	1201	
Times Over Voted	0	
Number Of Under Votes	0	
Write-in Votes	112	100.00%

RESOLUTION NO. 08-33

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
ESTABLISHING A POLICY AND PROCEDURE
FOR THE SELECTION OF THE MAYOR AND MAYOR PRO TEM**

WHEREAS, the City Council desires to establish a policy and procedure for appointing a member of the Council to serve as Mayor and Mayor Pro Tem; and

WHEREAS, the Council desires to adopt a policy that will be neutral and will rotate the offices of Mayor and Mayor Pro Tem, automatically, every year.

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

1. This policy and procedure will become effective as of January 1, 2009. Beginning at the first meeting of January in every calendar year, the office of Mayor shall automatically rotate.

2. Beginning at the first meeting of January, 2009, the office of Mayor shall automatically be filled, based on most seniority, measured by continuous tenure on the City Council.

3. As of the first meeting in January, 2009, Councilmembers will each be assigned a place in the rotation, with that Councilmember with most seniority measured by continuous tenure, becoming the Mayor, and each of the remaining 4 Councilmembers shall be assigned a number, 2 through 5, based on their seniority, measured by continuous tenure.

4. At the first meeting of January, thereafter, in each successive year, the office of Mayor shall automatically rotate to the next successive Councilmember in the rotation.

5. Should any Councilmember decline to serve when it is his or her turn to serve, based on the rotation, then the office of Mayor shall automatically rotate to the next Councilmember, by number, in the rotation.

6. When a Councilmember's year of service as Mayor has been completed, that Councilmember shall be placed at the end of the rotation.

7. The office of the Mayor Pro Tem shall also be selected based on seniority, in accordance with the foregoing formula, and the Mayor Pro Tem as of the first meeting of January, 2009, shall be that Councilmember assigned the number "2" in the rotation based on seniority. The Mayor Pro Tem shall automatically become Mayor following completion of the Mayor's term of service, as outlined above, and the new Mayor Pro Tem shall become the Councilmember next in the rotation.

8. If the Mayor Pro Tem position becomes vacant at any time during the year of service, the Councilmember next in the rotation, by number, shall fill the position and serve as Mayor Pro Tem for the remainder of the vacant term.

9. Completing the term of Mayor Pro Tem on behalf of another Councilmember, due to an unexpected vacancy, shall not be considered when determining seniority to serve as the Mayor Pro Tem in the proper and normal line of succession, nor preclude such Councilmember from serving as Mayor Pro Tem in his or her own right in the proper and normal line of succession.

The foregoing resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 21st day of July, 2008, by the following vote:

AYES: Fannon, Marquez, Sablan, Knight

NOES:

ABSTAIN:

ABSENT: DeFrancesco

APPROVED:

Craig Knight, Mayor
City of Firebaugh

ATTEST:

Rita Lozano, Deputy City Clerk
City of Firebaugh



CITY OF FIREBAUGH

City Council

As of December 17, 2018

Phone: (559) 659-2043 Fax: 659-3412

Please send Council's email correspondences to: deputyclerk@ci.firebaugh.ca.us

	<u>Name</u>	<u>Term</u>
Mayor	Marcia Sablan	Nov. 2018 – Nov. 2022
Mayor Pro Tem	Elsa Lopez	Nov. 2016 – Nov. 2020
Council Member	Freddy Valdez	Nov. 2016 – Nov. 2020
Council Member	Brady Jenkins	Nov. 2016 – Nov. 2020
Council Member	Felipe Perez	Nov. 2018 – Nov. 2022
City Clerk	Vacant	
City Manager	Ben Gallegos, City Manager/Acting Public Works Director Email: citymanager@ci.firebaugh.ca.us Email: publicworksdirector@ci.firebaugh.ca.us Phone: 559-659-2043 ext. 206	
Finance Director	Pio Martin Email: financedirector@ci.firebaugh.ca.us Phone: 559-659-2043 ext. 209	

All contact information for officials will be address to:

City Hall
1133 "P" Street
Firebaugh, CA 93622
Phone # (559) 659-2043 Fax # (559) 659-3412

Regular meeting of the Firebaugh City Council are held on the first and third Monday of each month at 6:00 p.m., Andrew Firebaugh Community Center, 1655 13th Street, Firebaugh, CA 93622.

MEETING MINUTES

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 3, 2018/6:00 p.m.
CALL TO ORDER Meeting called to order by Mayor Perez at 6:00 p.m.
ROLL CALL PRESENT: Mayor Felipe Pérez
Mayor Pro Tem Marcia Sablan
Council Member Elsa Lopez
Council Member Freddy Valdez
Council Member Brady Jenkins

OTHERS: City Attorney, Meggin Boranian; City Manager/Acting Public Works Director, Ben Gallegos; Finance Director, Pio Martin; Fire Chief, John Borboa; City Engineer, Mario Gouveia; Police Chief, Sal Raygoza and others.

PLEDGE OF ALLEGIANCE: Council Member Lopez led Pledge of Allegiance.

PUBLIC COMMENT:

Dotan Gilad owner of property (7110 N Washoe) which about 20 acres place an advertisement ad in "Grow" magazine, which is a Cannabis Horticulture Magazine. Mr. Gilad advertised rental space of his facility at \$12 per square foot for space of his property, and stated Mendota in only charging \$7 per square footage. Mr. Gilad want to subdivide the 20 acre parcel into 15 parcels. He is request an official letter to reduce price of rental and tax info be shared with the City Council of Firebaugh. Council Member Valdez requested this item be placed on an agenda for future discussion.

Connie Ortiz from New Life Church reported the Church is asking for donations for their "Boxes of Love Food List". Mrs. Ortiz provided a brochure with more information on non-perishable food items needed, to cover up to 25 -30 families in Firebaugh, Mendota and Dos Palos. The church is also holding a Coat Drive (Dec.1 thru 22) and Thanked the City for their help, especially Ben Gallegos.

CONSENT CALENDAR:

1. APPROVAL OF MINUTES – The City Council regular meeting on November 19, 2018.

Motion to accept minutes by Council Member Jenkins, second by Council Member Sablan; motion passes by unanimous 5-0 vote.

PUBLIC HEARING

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

No Comment Given

Motion to a close public hearing by Council Member Sablan, second by Council Member Jenkins; motion passes by unanimous 5-0 vote.

OLD BUSINESS

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

Presentation by Clayton Tuckfield, Council Member Lopez inquired about the number of units (dwellings) and commercial units. Table 11, shows a threshold of 125%. Representatives from Toma-Tek made comments and requested a copy or access to the water/wastewater rate study for their review.

Motion to proceed & begin Prop 218 process by Council Member Lopez, second by Council Member Sablan; motion passes by unanimous 5-0 vote.

NEW BUSINESS

4. 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).

Motion to approve Resolution No 18-57, \$260,000 purchase by Council Member Lopez, second by Council Member Jenkins; motion passes by unanimous 5-0 vote.

5. 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)

Motion to approve Resolution No 18-58 by Council Member Perez, second by Council Member Jenkins; motion passes by unanimous 5-0 vote.

6. 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.

Motion to approve Resolution No 18-60 by Council Member Lopez, second by Council Member Sablan; motion passes by unanimous 5-0 vote.

STAFF REPORTS

- City Manager, Benjamin Gallegos – Parade went well, new staff members will start Monday; Vanessa Linares & Olga Flores, both are Account Tech I. Olga will assist with Senior Center, Code Enforcement, and Ben with projects. Vanessa will work the front desk. Nancy will move to Margaret's old position and do payroll and accounts payable.
- Finance Director, Pio Martin – Working to complete the Audit in January.
- Police Chief Sal Raygoza – Will be out for 2 weeks because of leg injury.

- **City Engineer, Mario Gouveia** –Working to complete Q Street Project.
- **Fire Chief John Borboa** – Getting ready for “Every 15 minute program” will involve the whole Firebaugh High School population.
- **Police Chief, Sal Raygoza** - Getting ready for “Every 15 minute program”. There was a robbery incident today, Schools were on lock down.
- **Council Member Lopez** – Breakfast with Santa went good, it was a free event. City Staff did very well and was very helpful.
- **Mayor Perez** – Spring Clean-up group, Julio Barrios is the contact person.
- **Council Member Valdez** – Thanked those who put parade on and helped. City Staff and committee.

PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY: *NONE*

CLOSED SESSION: *NONE*

ANNOUNCEMENT AFTER CLOSED SESSION: *NONE*

ADJOURNMENT

Motion to adjourn by Council Member Lopez, second by Council Member Jenkins, motion passes by unanimous 5-0 vote at 7:36 pm.



REPORT TO CITY COUNCIL
— MEMORANDUM —

AGENDA ITEM NO: _____

COUNCIL MEETING DATE: December 19, 2018

SUBJECT: Warrant Register Dated: November 1, 2018 – November 30, 2018

RECOMMENDATION:

In accordance with Section 37202 of the Government Code of the State of California there is presented here with a summary of the demands against the City of Firebaugh covering obligations to be paid during the period of:

NOVEMBER 1, 2018 – NOVEMBER 30, 2018

Each demand has been audited and I hereby certify to their accuracy and that there are sufficient funds for their payment as of this date.

IT IS HEREBY RECOMMENDED THE CITY COUNCIL
APPROVE THE REGISTER OF DEMANDS AS FOLLOWS:

GENERAL WARRANTS	# 37455 – #37582	\$ 553,079.73
PAYROLL WARRANTS.....	# 70235 – #70330	\$ 219,882.61

TOTAL WARRANTS..... \$ 772,962.34

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37455	11/2/2018	E.H. WACHS COMPANY	\$ 439.57	CLUTCH PRESSURE WASHER
37456	11/2/2018	HUB INTERNATIONAL	\$ 128.04	SPECIAL EVENT INSURANCE
			\$ 128.04	SPECIAL EVENT INSURANCE
			\$ 128.04	SPECIAL EVENT INSURANCE
			\$ 128.04	SPECIAL EVENT INSURANCE
		Check Total:	\$ 512.16	
37457	11/2/2018	RODDY A. LAKE	\$ 313.75	POLICE HEALTH INS
37458	11/2/2018	MEGGIN BORANIAN	\$ 6,000.00	MONTHLY RETAINER FOR NOV2018
			\$ 351.00	PD-SPECIAL SERVICE LITIGATION
		Check Total:	\$ 6,351.00	
37459	11/2/2018	MID-VALLEY DISPOSAL	\$ 28,516.93	SERVICES PERFORMED NOV. 2018
37460	11/2/2018	THOMASON TRACTOR COM	\$ 46.41	SHOP WEEDEATERS-SPOOL
			\$ 147.54	FILTER/V BELT
			\$ 7.95	ORANGE TRAILER-WHEEL BOLT
		Check Total:	\$ 201.90	
37461	11/2/2018	U.S. POSTMASTER	\$ 792.89	UTILITY BILLING NOVEMBER
37462	11/2/2018	DATAPATH	\$ 992.50	MONTHLY BILLING FOR NOVEMBER
37463	11/2/2018	FERNANDO CAMPA	\$ 250.00	HEALTH INS STIPEND PER MOU
37464	11/2/2018	RICARDO MONAY	\$ 250.00	HEALTH INS STIPEND PER MOU
37465	11/2/2018	GRACIELA V. RODRIGUEZ	\$ 250.00	HEALTH INS STIPEND PER MOU
37466	11/2/2018	TUCKER CARRILLO-ZAZUE	\$ 250.00	HEALTH INS STIPEND PER MOU
37467	11/2/2018	CITY OF FIREBAUGH	\$ 40,951.30	MONTH END VENDOR PAYMENTS
37468	11/5/2018	CITY OF FIREBAUGH	\$ 91,092.83	PPE 11/02/18
37469	11/9/2018	AGRI-VALLEY IRRIGATION	\$ 30.93	DOG POUND-PREMIUM PLUG
			\$ 46.37	DOG POUND-PREMIUM PLUG
			\$ 41.84	CEMENT GRAY/SCHEDULE/ADAPTER
			\$ 1.94	ELBOW
			\$ 22.44	SHOVEL
			\$ 8.97	WWTP-NIPPLE POLY/HARDIE
			\$ 1.29	PARK-BUSHING SCHEDULE

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37469	11/9/2018	AGRI-VALLEY IRRIGATION	\$ 14.81	CHURCH ON 7TH-PIPE/TEE SCHEDULE
		Check Total:	\$ 168.59	
37470	11/9/2018	ELIZABETH BAEZA	\$ 75.00	A/F HALL CLEANING DEPOSIT
37471	11/9/2018	BOGIE'S PUMP SYSTEMS	\$ 536.34	KIT/SHAFT SEALS
37472	11/9/2018	CED-FRESNO	\$ 32.39	DUNKLE PARK PULL BOX
37473	11/9/2018	CORELOGIC SOLUTIONS, LL	\$ 206.00	REALQUEST OCT 2018
37474	11/9/2018	DEPARTMENT OF JUSTICE	\$ 210.00	SEPTEMBER 2018 BLOOD ALCOHOL
37475	11/9/2018	EMPLOYMENT DEVELOPME	\$ 397.00	UNEMPLPYMENT N. SANCHEZ
37476	11/9/2018	E.H. WACHS COMPANY	\$ 750.43	BLOWER CLUTCH
37477	11/9/2018	ELITE UNIFORMS	\$ 1,513.34	PD-MILLER/FRIAS VISION EQUIPEMENT
37478	11/9/2018	FIREBAUGH SUPER MARKE	\$ 25.98	SENIORS-FOLGERS
			\$ 21.09	COMMUNITY CENTER-AJAX
			\$ 11.86	SENIOR CENTER-SITE PROGRAM
			\$ 12.08	SENIORS-CREAMER
			\$ 6.76	DOG POUND-DOG FOOD
			\$ 32.37	DOG KENNEL-DOG FOOD
			\$ 5.14	COMMUNITY CENTER-BLEACH
			\$ 12.38	COUNCIL MEETINGS-WATER
		Check Total:	\$ 127.66	
37479	11/9/2018	FIREBAUGH AUTO REPAIR	\$ 462.00	FIRE DEPT- 2009 FRERRARA
			\$ 6,781.00	FD-2008 FORD F350
			\$ 303.00	FD-2009 FRERRARA IGNITOR
			\$ 127.00	FD-2011 CHEVY SILVERADO
		Check Total:	\$ 7,673.00	
37480	11/9/2018	FIREBAUGH HARDWARE CC	\$ 15.75	DOG POUND-WEBSTER DUSTER
37481	11/9/2018	FRESNO COUNTY TREASUR	\$ 164.04	ACCESS FEES OCTOBER 2018
37482	11/9/2018	FRESNO-MADERA AREA AG	\$ 31.28	9/18 NON USDA QUALIFIED MEALS
37483	11/9/2018	FRESNO OXYGEN	\$ 56.31	PW-SHOP
37484	11/9/2018	GOLDEN ONE CREDIT UNIO	\$ 1,666.66	JOHN BORBOA MONTHLY STIPEND

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37485	11/9/2018	GOODALL TRUCKING, INC.	\$ 939.38	MATERIAL AC
37486	11/9/2018	GRAND FLOW	\$ 185.93	W-2 PART LASER/1099 MISC
37487	11/9/2018	GUTHRIE PETROLEUM, INC.	\$ 1,189.00	BULK UNLEADED GASOLINE
			\$ 974.27	BULK UNLEADED GASOLINE
			\$ 1,357.01	BULK UNLEADED GASOLINE
			\$ 1,602.76	BULK DIESEL FUEL
			\$ 1,434.20	BULK UNLEADED GASOLINE
			\$ 818.39	BULK UNLEADED GASOLINE
Check Total:			\$ 7,375.63	
37488	11/9/2018	GLORIA HERNANDEZ	\$ 454.04	CANCELLED FUNCTION AT VFW
37489	11/9/2018	L.N.CURTIS & SONS	\$ 469.98	FD-COMPRESSOR REPAIR
37490	11/9/2018	MANUELS TIRE SERVICE, IN	\$ 16.26	RADIAL PATCH
			\$ 319.72	VALVE STEM FORD F150/TIRE
			\$ 16.26	PW#36-RADIAL PATCH
			\$ 94.67	ORANGE TRAILER
Check Total:			\$ 446.91	
37491	11/9/2018	PECK'S PRINTER	\$ 1,237.05	PD-3 PART NOTICE TO APPEAL
37492	11/9/2018	CALIF PUBLIC EMPLOYEES	\$ 9,189.51	ANNUAL UNFUNDED ACCRUED
			\$ 14,570.65	ANNUAL UNFUNDED ACCRUED
Check Total:			\$ 23,760.16	
37493	11/9/2018	PORTER CORP	\$ 25,370.90	PARKER'S PARK-ANCHOR BOLT
37494	11/9/2018	CSG CONSULTANTS, INC.	\$ 1,080.00	BLDG & INSPEC 9/1/18-9/28
37495	11/9/2018	SAN JOAQUIN VALLEY	\$ 551.00	18/19 ANNUAL PERMITS TO OPERATE
37496	11/9/2018	STATE WATER RESOURCES	\$ 170.00	WATER OPERATOR CERTIFICATE
37497	11/9/2018	STAPLES BUSINESS ADVAN	\$ 279.82	PD-OFFICE SUPPLIES
37498	11/9/2018	TECH MASTER MANAGEME	\$ 40.00	PD-PEST CONTROL
37499	11/9/2018	TONY'S CONSTRUCTION, IN	\$ 1,727.63	MATERIALS-PARK SHADE
37500	11/9/2018	TUCKFIELD & ASSOCIATES	\$ 16,537.50	WATER AND WASTEWATER RATE
37501	11/9/2018	USA BLUEBOOK	\$ 1,923.92	CHLORINE REAGENT SET

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
37502	11/9/2018	U.S. BANK EQUIPMENT FINA	\$ 746.73	RNT/LEASE EQUIP
37503	11/14/2018	WESTAMERICA BANK	\$ 1,000.00	MONEY FOR XMAS PARADE RAFFLE
37504	11/16/2018	ALERT-O-LITE, INC.	\$ 610.37	ASPHALT PATCH
			\$ 154.51	SONATUBE
		Check Total:	\$ 764.88	
37505	11/16/2018	SYNCB/AMAZON	\$ 104.63	PD-48PCS,CARDBOARD
37506	11/16/2018	AUTOZONE COMMERCIAL (\$ 10.57	FD-ELECTRONIC CLEANER
			\$ 33.45	FD-SEAT COVER/PROELITE SQ
			\$ 15.10	FD-NEO CHROM PROELITE
			\$ 42.72	ANTIFREEZE/COOLANT/HEATER
			\$ 8.62	PW#34-AIR/OIL FILTER
			\$ 8.42	PD#7-OIL FILTER
			\$ 4.74	PW#40-BATTERY
			\$ 71.23	PW#39-BATTERY
			\$ 7.35	PW#39-BATTERY
			\$ 14.03	TAMPER PROOF TORX
			\$ (14.03)	POINT TAMPER PROOF
			\$ 5.39	DURALAST
			\$ 43.79	PD UNIT 7,4,10-CLEANING
			\$ 8.42	PD#4-BATTERY
			\$ 46.94	PD-AIR FILTER/WIPER BLADE
			\$ 58.33	TRUCK#38-WIPER BLADE/BULB
		Check Total:	\$ 365.07	
37507	11/16/2018	AXCES INDUSTRIAL SUPPLY	\$ 330.41	FLOAT AWAY/CITRUS FLOATING
37508	11/16/2018	BECS PACIFIC LTD	\$ 45.00	OPACITY TEST
37509	11/16/2018	CINTAS	\$ 21.73	COMMUNITY CTR
			\$ 14.50	8000 HELM CANAL
			\$ 14.50	8000 HELM CANAL
			\$ 97.83	CITY SHOP
			\$ 21.73	COMMUNITY CTR
			\$ 114.57	CITY SHOP
			\$ 20.34	CITY HALL
			\$ 21.73	COMMUNITY CTR
			\$ 14.50	8000 HELM CANAL
			\$ 21.73	COMMUNITY CTR
			\$ 98.17	CITY SHOP
			\$ 14.50	8000 HELM CANAL
			\$ 21.73	COMMUNITY CENTER

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37509	11/16/2018	CINTAS	\$ 98.17	CITY SHOP
			\$ 14.50	8000 HELM CANAL
			\$ 20.34	CITY HALL
			\$ 114.23	CITY SHOP
			\$ 20.34	CITY HALL
		Check Total:	\$ 765.14	
37510	11/16/2018	COMCAST	\$ 683.36	PD-INTERNET
37511	11/16/2018	FERGUSON ENTERPRISES, II	\$ 643.55	PW-PARTS
			\$ 103.22	PW-PARTS
		Check Total:	\$ 746.77	
37512	11/16/2018	FIREBAUGH AUTO REPAIR	\$ 155.00	PW#11-FORLIFT BATTERY
37513	11/16/2018	FIRST BANKCARD	\$ 67.06	BEN-ICSC CONFERENCE GAS
			\$ 553.04	BEN-SHERATON GRAND ICSC
			\$ 39.00	BEN-CREDIT CARD OVER LIMIT
			\$ 99.05	BEN-BEAL'S VACUUM
			\$ 49.17	BEN-BATTERIES FOR SEWER
			\$ 0.12	BEN-CITY OF FRESNO PARKING
			\$ 71.55	PIO-SMART AND FINAL-MARGARET
			\$ 32.86	PIO-SMART AND FINAL MARGARET
			\$ 24.84	PIO-FIREBAUGH SUPERMARKET
			\$ 26.97	PIO-ADMIT ONE XMAS PARADE
			\$ 553.04	BEN-SHERATON GRAND ICSC
			\$ 623.04	BEN-SHERATON GRAND ICSC
			\$ 5.00	BEN-CITY OF FRESNO PARKING
			\$ 5.74	BEN-UBER ICSC CONFERENCE
			\$ 509.82	PD-SPEED TECH LIGHTS
			\$ 155.36	PD-PEOPLEFACTS
			\$ 101.19	PIO-ZORO TOOLS WATER
			\$ 31.72	PIO-COSTCO MARGARET RETIREMENT
			\$ 59.20	PIO-PERFORATED PAPER
		Check Total:	\$ 3,007.77	
37514	11/16/2018	GOLDEN STATE FLOW	\$ 11,020.76	SENU-S-METERS
37515	11/16/2018	HOME DEPOT CREDIT SERV	\$ 642.02	DOG POUND-SUPPLIES
			\$ 288.90	DOG POUND-SUPPLIES
			\$ 56.73	DOG POUND-SUPPLIES
			\$ 1,263.88	SENIOR CENTER-SUPPLIES
		Check Total:	\$ 2,251.53	
37516	11/16/2018	NICHOLS CONSULTING	\$ 800.00	STATE MANDATED COST

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
37517	11/16/2018	PACIFIC GAS & ELECTRIC	\$ 49,100.10	ALL DEPTS #7355932148-1
37518	11/16/2018	JENNIFER PEREZ	\$ 100.00	DEPOSIT FACE PAINTER/BALL
37519	11/16/2018	RSG, INC.	\$ 3,008.75	2018-19 SUCCESSOR AGENCY
			\$ 680.00	HOUSING SUCCESSOR AGENCY
		Check Total:	\$ 3,688.75	
37520	11/16/2018	SAN JOAQUIN RIVER EXCH/	\$ 2,330.27	GROUNDWATER SUSTAINABILITY
37521	11/16/2018	SIGNMAX	\$ 205.16	SIGN-TAX DOLLARS AT WORK
37522	11/16/2018	SILVA FORD MADERA	\$ 44.62	PART
37523	11/16/2018	SPARKLETTS	\$ 241.98	CITY HALL/PD/PW
37524	11/16/2018	TELSTAR	\$ 1,271.25	TS MULTIPLE ISSUES-VEHICLE
37525	11/16/2018	THUNDER INFLATABLES, IN	\$ 200.00	DEPOSIT 2 BOUNCE HOUSES XMAS
37526	11/16/2018	TUCKFIELD & ASSOCIATES	\$ 11,812.50	WATER AND WASTEWATER RATE
37527	11/16/2018	VERIZON WIRELESS	\$ 646.97	CITY HALL/PW CELL PHONES
37528	11/21/2018	CITY OF FIREBAUGH	\$ 89,887.13	PAY PERIOD ENDING NOV.16,
37529	11/21/2018	ACE TROPHY SHOP	\$ 356.32	TROPHIES 1ST PLACE WINNER
37530	11/21/2018	BSK & ASSOCIATES, INC.	\$ 297.00	LAB ANALYSIS
			\$ 180.00	LAB ANALYSIS
			\$ 68.76	LAB ANALYSIS
			\$ 268.78	LAB ANALYSIS
			\$ 300.00	LAB ANALYSIS
			\$ 45.00	LAB ANALYSIS
			\$ 68.76	LAB ANALYSIS
			\$ 37.50	LAB ANALYSIS
			\$ 268.78	LAB ANALYSIS
			\$ 37.50	LAB ANALYSIS
			\$ 45.00	LAB ANALYSIS
			\$ 56.28	LAB ANALYSIS
			\$ 268.78	LAB ANALYSIS
			\$ 68.76	LAB ANALYSIS
			\$ 37.50	LAB ANALYSIS
			\$ 56.28	LAB ANALYSIS
			\$ 268.78	LAB ANALYSIS

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37530	11/21/2018	BSK & ASSOCIATES, INC.	\$ 55.00	LAB ANALYSIS
			\$ 300.00	LAB ANALYSIS
			\$ 37.50	LAB ANALYSIS
			\$ 56.28	LAB ANALYSIS
			\$ 87.51	LAB ANALYSIS
			\$ 631.28	LAB ANALYSIS
Check Total:			\$ 3,541.03	
37531	11/21/2018	COOK'S COMMUNICATIONS	\$ 298.01	PD-3 REMOTE SPEAKER MIC
37532	11/21/2018	MARIA CUEN	\$ 150.00	CLEANING DEPOSIT REFUND
37533	11/21/2018	CENTRAL VALLEY TOXICOI	\$ 78.00	PD-DRUG SCREEN TEST
37534	11/21/2018	DEPARTMENT OF JUSTICE	\$ 32.00	OCTOBER 2018 FINGERPRINT
			\$ 350.00	OCTOBER 2018 BLOOD ALOCHOL
Check Total:			\$ 382.00	
37535	11/21/2018	DISH	\$ 5.43	SENIOR CENTER CABLE
37536	11/21/2018	EXCEL SIGN COMPANY	\$ 267.36	PD-REPLACE DAMAGED GRAPHIC
37537	11/21/2018	FEDEX	\$ 35.77	FIRE DEPT DELIVERY
37538	11/21/2018	FRESNO COUNTY TREASUR	\$ 55.16	19-PRISONER PROCESSING
37539	11/21/2018	JO STUDIOS	\$ 1,000.00	SOUND LIGHT & STAGE XMAS
37540	11/21/2018	ARACELI PAREDES	\$ 140.00	A/F HALL CLEANING DEPOSIT
37541	11/21/2018	JENNIFER PEREZ	\$ 300.00	REMAINING BALANCE FACE PAINTING
37542	11/21/2018	PETE'S AUTO BODY, LLC	\$ 85.00	TOW PD MOTORCYCLE
37543	11/21/2018	PETERS BROTHERS NURSER	\$ 194.81	O STREET-CHINESE ELM TREE
37544	11/21/2018	YESENIA RIVAS	\$ 150.00	CANCELLED FUNCTION 12/22 /18
37545	11/21/2018	ISABEL SALDIVAR	\$ 87.35	REIMBURSEMENT GIFTS XMAS PARADE
37546	11/21/2018	MIGUEL SOTO	\$ 1,460.00	DJ SERVICES XMAS PARADE
37547	11/21/2018	RAQUEL TABARES	\$ 200.00	DESIGN XMAS 2018 FYLER
37548	11/21/2018	THUNDER INFLATABLES, IN	\$ 709.50	REMAINING BALANCE BOUNCE

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37549	11/21/2018	WESTAMERICA BANK	\$ 100.00	CASH PRIZE TAMALE CONTEST
37550	11/28/2018	AT&T MOBILITY	\$ 554.52	POLICE DEPT #287285052476
37551	11/28/2018	BIG G'S AUTOMOTIVE CENT	\$ 862.52	F250-LABOR & DIAGNOSIS
37552	11/28/2018	FERNANDO CAMPA	\$ 900.00	UNIFORM ALLOWANCE
37553	11/28/2018	JUAN C. CASTILLO	\$ 900.00	UNIFORM ALLOWANCE
37554	11/28/2018	CORBIN WILLITS SYSTEMS	\$ 1,020.18	ADMINISTRATION C/W SERVICE
37555	11/28/2018	FERGUSON ENTERPRISES, INC.	\$ 777.67	PW-PARTS
37556	11/28/2018	GOUVEIA ENGINEERING, INC.	\$ 139.13	720.21 O'REILLY'S AUTO PARTS
			\$ 271.69	725.01 PUBLIC WORKS GENERAL
			\$ 507.55	740.12 HUD TANK
			\$ 1,134.00	745.01 STREETS GENERAL
			\$ 131.25	745.22 TRAIL REHAB/PED IMPROV.
			\$ 1,093.31	745.23C "Q" STREET ROADWAY
			\$ 1,035.56	745.23D "Q" STREET ROADWAY
			\$ 241.50	760.01 AIRPORT GENERAL
			\$ 1,727.25	775.06 O'REILLY'S PARCEL
			\$ 1,459.50	775.07 CEN CAL BUILDERS
			\$ 413.44	785.03 WEST HILLS EXPANSION
			\$ 141.75	720.01 PLANNING GENERAL
			\$ 903.00	720.15 APN 007-06-20 STEV
			\$ 1,695.72	725.01 PUBLIC WORKS GENERAL
			\$ 2,295.56	725.11 RESEARCH EASEMENT
			\$ 250.00	740.12 HUD TANK
			\$ 310.50	745.01 STREETS GENERAL
			\$ 946.25	745.10C CML-5224(015) POSO CANAL
			\$ 2,311.25	745.19C CML-5224(019)PEDESTRIAN
			\$ 6,959.24	745.23C "Q" STREET ROADWAY
			\$ 773.06	775.05 ARTHUR E. MILLS SCHOOL
			\$ 4,107.94	775.06 O'REILLY'S PARCEL
			\$ 3,135.38	775.07 CEN CAL BUILDERS
			\$ 1,498.88	785.22 "N" STREET APARTMENT
Check Total:			\$ 33,482.71	
37557	11/28/2018	GRAINGER, INC.	\$ 69.93	STREET LIGHT-CONNECTOR
			\$ 331.83	STREET LIGHT-LAMP,MALDONADO
Check Total:			\$ 401.76	
37558	11/28/2018	GRAND FLOW	\$ 214.14	BLANK LASER BLUE/GREEN

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37559	11/28/2018	BRADY JENKINS	\$ 300.00	MONTHLY SALARY ATTENDANCE
37560	11/28/2018	KER WEST, INC. DBA	\$ 220.00	ADVERTISE ENVIRON. DOCUMENT
37561	11/28/2018	MAGDA MARTINEZ	\$ 900.00	UNIFORM ALLOWANCE
37562	11/28/2018	FERNANDO MARTINEZ	\$ 900.00	UNIFORM ALLOWANCE
37563	11/28/2018	BRETT M. MILLER	\$ 900.00	UNIFORM ALLOWANCE
37564	11/28/2018	MOLINA, JESUS	\$ 900.00	UNIFORM ALLOWANCE
37565	11/28/2018	RICARDO MONAY	\$ 375.00	UNIFORM ALLOWANCE
37566	11/28/2018	FELIPE PEREZ	\$ 300.00	MONTHLY SALARY FOR ATTENDANCE
37567	11/28/2018	PRECISION CONCRETE CUT	\$ 2,998.24	SIDEWALK OFFSET REPAIR
37568	11/28/2018	CSG CONSULTANTS, INC.	\$ 810.00	BLDG & INSPEC 9/29-10/26
37569	11/28/2018	SALVADOR RAYGOZA	\$ 900.00	UNIFORM ALLOWANCE
37570	11/28/2018	MARCIA SABLAN	\$ 300.00	MONTHLY SALARY FOR ATTENDANCE
37571	11/28/2018	SEAN STEVENS	\$ 940.00	XMAS CHARACTERS FOR PARADE
37572	11/28/2018	RAQUEL TABARES	\$ 780.00	UNIFORM ALLOWANCE
37573	11/28/2018	TECH MASTER MANAGEME	\$ 150.00	PEST CONTROL CITY HALL/PW
37574	11/28/2018	THUNDER INFLATABLES, IN	\$ 540.00	ADDITION OF SNOW GLOBE XMAS
37575	11/28/2018	TIFCO INDUSTRIES	\$ 386.28	PW-PARTS
37576	11/28/2018	TONY'S CONSTRUCTION, IN	\$ 2,240.00	PYMT CONCRETE CURB & GUTT
37577	11/28/2018	USA BLUEBOOK	\$ 371.03	C-FLEX TUBING/SWAB APPLICATION
			\$ 76.94	REAGENT IRON FERROVER
		Check Total:	\$ 447.97	
37578	11/28/2018	ALFRED VALDEZ	\$ 150.00	MONTHLY SALARY FOR ATTENDANCE
37579	11/28/2018	WEST SIDE DRUG STORE	\$ 6.10	PD-INTOX BATTERY
37580	11/28/2018	WESTAMERICA BANK	\$ 295.00	TAMALE CONTEST 2ND/3RD PLACE

**CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS NOVEMBER 1, 2018 - NOVEMBER 30, 2018**

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
37581	11/28/2018	TUCKER J. CARRILLO-ZAZU	\$ 75.00	UNIFORM ALLOWANCE
37582	11/28/2018	CITY OF FIREBAUGH	\$ 38,902.65	MONTH END PAYROLL NOVEMBER18

RESOLUTION NO. 18-61

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH
APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT WITH
CONSULTANT FOR THE PROVISION OF ELECTRIC MANAGEMENT SERVICES**

WHEREAS, Consultant has presented the City with the attached Electric Management Services Agreement (“Agreement”) which extends the provision of electric management services to the City by Consultant; and

WHEREAS, the City Council believes that the attached Agreement is reasonable and that it is in the best interests of the City to retain Consultant on the terms and conditions set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Firebaugh hereby approves the attached Electric Management Services Agreement, which is incorporated herein by this reference, and authorizes the City Manager, Benjamin Gallegos, to execute the Agreement on 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 17th day of December 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Felipe Perez, Mayor

Rita Lozano, Deputy City Clerk

ELECTRIC MANAGEMENT SERVICES AGREEMENT

This Electric Management Services Agreement (Agreement) is entered by and between EnerPower, with principal address at 17445 Goodland Court, Lakeville, MN 55044, and

_____, Company, with principal address at:

for the following services:

- ☐ Electricity audit
- ☐ Meter and rate change recommendation
- ☐ Ongoing energy consultation and information updates regarding electricity rates

This Agreement includes the following payment terms:

1. Company will pay EnerPower 35% of savings on their electric bills for 60 billable months (five years), commencing with the first full month of service at PG&E's new rate schedule.
2. EnerPower will analyze total net savings after each of the first four (12 month) periods. Company agrees to continue this Agreement after each period providing there has been a positive total net savings.
3. Savings will be determined each month by calculating the rate the company would have paid to PG&E on their old rate schedule (using current pricing) minus the current rate obtained on their new rate schedule multiplied by the total kWh for that month's PG&E bill.
4. The rate is calculated by taking the total net charges (Customer Charge, Demand Charges, Energy Charges) divided by the total kWh usage for that month. No taxes or Demand Response Programs will be figured into the rate calculation.
5. See Exhibit A for all accounts covered in this Agreement.
6. Agreement shall be in force beginning the month of _____, Year _____, and ending the month of _____, Year _____.
7. Upon receipt of monthly PG&E electric bills, Company agrees to grant EnerPower access to the billing information by one of the following methods (initial one):
_____ Authorize EnerPower to obtain billing information from PG&E's website; OR
_____ Fax copies of the bills each month to EnerPower.
8. Savings shall be calculated by EnerPower Analyst and approved by _____, Company Representative.
9. Payments to EnerPower shall be made monthly upon receipt of savings report and invoice.

10. During the term of this Agreement, should EnerPower discover overcharge errors by PG&E that occurred prior to Effective Date of the Agreement, Company agrees to pay EnerPower 35% of the recovered overcharge amount.
11. In the process of analyzing all of the Company's electric accounts, if any account not listed in the Agreement is identified as having potential savings, said account(s) shall be added to Agreement under the same terms and conditions with a new effective date.
12. Throughout the term of this Agreement, EnerPower will adjust prices based on PG&E's current rate schedule.
13. This agreement shall survive and remain in force with any change in Company management.

EnerPower is and at all times shall be an independent contractor of Company and not a partner or employee of Company. EnerPower shall file all required United States federal, state and local corporate documents and shall pay when due all taxes on account of its remuneration hereunder.

EnerPower shall not assign rights or delegate responsibilities under this Agreement without prior written approval.

This Agreement shall be governed in all respects by the laws of the State of California.

IN WITNESS WHEREOF, the parties have acknowledged and accepted the terms of this Agreement as of the month, day, year above first written and is authorized to execute this Agreement on behalf of Company:

EnerPower

Company

John Ryan, President

By (Signature)

(Title)

Date

Date

RESOLUTION NO. 18-62

**A RESOLUTION OF THE CITY OF FIREBAUGH APPROVING AND AUTHORIZING EXECUTION
OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES AS CITY ATTORNEY**

WHEREAS, the City of Firebaugh requires the services of a City Attorney; and

WHEREAS, Lozano Smith is trained and experienced to provide such services; and

WHEREAS, the parties wish to enter into an Agreement for Professional Services as City Attorney.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the governing body of the City of Firebaugh hereby approves the attached Agreement for Professional Services as City Attorney, which is incorporated herein by this reference and authorizes the City Manager, Benjamin Gallegos, to execute the same on 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 17th day of December, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Felipe Perez, Mayor

Rita Lozano, Deputy City Clerk



CITY OF FIREBAUGH

AGREEMENT FOR PROFESSIONAL LEGAL SERVICES AS CITY ATTORNEY

THIS AGREEMENT is made and entered into as of _____, between the CITY OF FIREBAUGH, a municipal corporation (hereinafter referred to as "City") and LOZANO SMITH, a limited liability partnership (hereinafter referred to as "Attorney"). The term "City" shall also include all boards, commissions, and other bodies of the City.

1. SCOPE OF WORK AND DUTIES

The City hires Lozano Smith as its City Attorney to render such legal services as are customarily rendered by a City Attorney, including attending meetings of the City Council, and other commissions, boards, and committees of the City, and its affiliated agencies, as directed by the City. Representation shall include, but not necessarily be limited to, drafting and reviewing ordinances, resolutions and City agreements, and consulting with or advising City staff on legal issues that arise within their areas of operation, and generally advising the City Council and City staff concerning the legal affairs of the City.

Attorney, as a full-service law firm, is prepared to, and will, provide representation to City in all of its legal affairs, including, but not limited to, municipal law, tort defense, labor representation, criminal prosecution, redevelopment dissolution, land use, finance, franchising, contract representation and other matters, except where conflicts exist or where the City Council may otherwise direct. Attorney shall represent the City in initiating and defending all litigation unless otherwise directed by the City Council.

All of these duties shall be performed, as directed by the City Council, and Attorney will keep the City Council and the City Administrator informed as to the progress and status of all pending matters. All legal services can be authorized only by the City Council or the City Administrator.

Attorney will manage and control the delivery of legal services in a competent, professional, and cost-effective manner. Where appropriate, Attorney may from time to time recommend the use of special counsel. In that event, Attorney shall coordinate the work of special counsel. Notwithstanding the foregoing, it is expressly understood that Attorney shall not be responsible for any pending litigation matter(s) until Attorney has specifically appeared in the matter as attorneys of record on behalf of City.

The scope of work and duties under this Agreement shall not include representation of the City as Bond Counsel. In the event City desires that Attorney act as Bond Counsel, and Attorney so agrees, City and Attorney shall enter into a separate Bond Counsel Agreement setting forth Attorney's duties and compensation for such Bond Counsel services. City and Attorney may

agree that such compensation shall be on a contingent fee basis.

2. CITY DUTIES

City agrees to provide such information, assistance, cooperation, and access to books, records, and other information, as is necessary for Attorney to effectively render its professional services under this Agreement. City further agrees to abide by this Agreement, and to pay in a timely manner for Attorney's bills for fees, costs, and expenses.

3. LEGAL FEES, BILLING PRACTICES, AND PERSONNEL

City shall compensate Attorney for legal services provided within the scope of work and duties as follows:

Hourly Rates for General Legal Services	Attorneys	\$185 per hour
	Law Clerk	\$110 per hour
	Paralegal	\$110 per hour
Hourly Rates for Special Legal Services including Litigation	Attorneys	\$240 per hour
	Law Clerk	\$110 per hour
	Paralegal	\$110 per hour

In addition to paying legal fees, City shall reimburse Attorney for customary and reasonable costs and expenses incurred by Attorney in the course of providing legal services to City. Costs will include, but are not limited to, all third party expenses, mileage for travel, duplicating, long distance telephone, postage charges, delivery charges, computerized legal research, facsimile charges, and filing fees.

Attorney shall render to City a statement for fees for services and costs incurred every calendar month. City shall pay Attorney's statement within thirty (30) days after issuance of each statement. Each statement shall clearly indicate the basis of the fees, including the working attorney, hours worked, hourly rate (or flat meeting rate) and a brief description of the work performed, and a description of costs charged.

The City Attorney will exercise discretion to use whichever attorneys, paralegals and staff that he determines best suited to the rendering of legal services in a competent and economically efficient manner.

4. THIRD PARTY COSTS AND EXPENSES

Attorney may determine it necessary or appropriate to use one or more outside investigators, consultants, or experts in rendering the legal services required (particularly if a matter goes into litigation). Upon advance City Administrator approval and proper documentation, City shall pay directly or reimburse Attorney for directly incurred out-of-pocket disbursements, costs, and expenses of providing said services.

5. INDEPENDENT CONTRACTOR/LAWFUL PERFORMANCE

Attorney shall perform all legal services required under this Agreement as an independent contractor. Attorney shall fully comply with the provisions of law regarding performance of this Agreement, including but not limited to, laws regarding licensure, professional canons of ethics and conflict of interest statutes, rules and regulations. Attorney must certify and comply with the following: (1) that Attorney has no ethical or legal conflicts which would in general disqualify Attorney from representing the City; (2) that Attorney will refrain from initiating any legal action against City (or their respective officers, agents and employees in their official capacity as such) by way of complaint or cross-complaint during the term of this Agreement or any services rendered pursuant thereto, whichever later occurs; and (3) that Attorney will promptly disclose upon knowledge or discovery of any specific facts which would or could potentially disqualify Attorney from representing City pursuant to this Agreement.

6. HOLD HARMLESS

Attorney agrees to protect indemnify and save harmless against all claims, demands and causes of action by Attorney's employees or third parties on account of personal injuries or death or on account of property damages arising out of the work to be performed by Attorney hereunder and resulting from the negligent acts or omissions of Attorney, Attorney's agents, employees or subcontractors.

7. INSURANCE

Attorney shall procure and maintain, at his sole cost and expense, comprehensive general liability and property damage insurance, including automobile and excess liability insurance, and professional liability insurance against all claims for injuries against persons or damages to property resulting from Attorney's negligent acts or omissions rising out of or related to Attorney's performance under this Agreement. The minimum amount of such insurance shall be \$1,000,000. Attorney shall also carry Workers' Compensation Insurance in accordance with applicable laws of the State of California. Such coverage shall be maintained in effect during the term of this Agreement and shall not be subject to reduction in coverage below the limits established, nor shall the insurance be canceled or terminated without thirty (30) days, prior written notice to the City. A certificate evidencing the foregoing, and naming the City as an additional insured, shall be delivered to and approved by the City prior to commencement of services pursuant to this Agreement.

8. TERM, DISCHARGE, AND WITHDRAWAL

This Agreement shall continue in effect until terminated by discharge or withdrawal. City may discharge Attorney at any time. Attorney may withdraw from City's representation at any time, to the extent permitted by law, and the rules of Professional Conduct, upon at least thirty (30) days written notice. Upon notice of discharge or withdrawal, Attorney shall deliver all documents and records of the City to the City and assist to the fullest extent possible in the orderly transition of all pending matters to City's new counsel.

9. NOTICE

Any notice required by law or by this Agreement shall be deemed delivered upon personal delivery or when deposited in the United States Mail, postage prepaid, and addressed as described below or to any subsequently noticed change or address, whichever applies:

City Council
CITY OF FIREBAUGH
1133 "P" Street
Firebaugh, CA 93622

Executive Director
LOZANO SMITH
7404 North Spalding Avenue
Fresno, CA 93720

10. EFFECTIVE DATE

This Agreement shall be effective _____.

11. ASSIGNMENT

This Agreement shall not be assigned by Attorney without prior written consent of the City.

12. CONSENT TO ELECTRONIC COMMUNICATIONS

In order to maximize efficiency, Attorney intends to use technology to facilitate its representation of City. Such technology may include, but is not limited to, email, document transfers by computer, cellular telephones, and use of mobile computing devices. The use of such technology may place City confidences and privileges at risk. While Attorney has reasonable safeguards in place to guard against any breach of confidentiality, Attorney cannot guarantee that such information will not be accessed by persons not entitled to access such information and there is a risk of accidental disclosure. Knowing the foregoing, City nevertheless consents to the use of technology.

13. SUPERSESSION

This Agreement supersedes any and all prior agreements or amendments thereto entered into for legal services between City and Attorney.

CITY
CITY OF FIREBAUGH

ATTORNEY
LOZANO SMITH

By: _____

By: Karen M. Rezendes
Karen M. Rezendes, Managing Partner

Date: _____

Date: November 5, 2018

ORDINANCE NO. 18-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH (1) AMENDING MUNICIPAL CODE SECTION 25-29.2 TO CLARIFY COMMERCIAL CANNABIS ACTIVITIES IN THE M-2 ZONES; (2) AMENDING MUNICIPAL CODE SECTION 25-41.13 TO ESTABLISH A NEW “CANNABIS CONTROL ORDINANCE,” INCLUDING A REGULATORY FRAMEWORK FOR COMMERCIAL CANNABIS OPERATIONS AND PERSONAL USE CULTIVATION (MEDICAL AND RECREATIONAL/ADULT USE); AND (3) AMENDING MUNICIPAL CODE SECTION 25-67.3 “DEFINITIONS” TO DELETE AND MOVE CANNABIS-RELATED DEFINITIONS TO MUNICIPAL CODE SECTION 25-41.13

WHEREAS, on November 20, 2017, the City Council for the City of Firebaugh did adopt Ordinance 17-03 establishing provisions within the City’s 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 (the “Marijuana Ordinance”);

WHEREAS, the Marijuana Ordinance did not regulate personal or medical use cultivation of cannabis in the home or medical and recreational/adult use as allowed under State law;

WHEREAS, on January 1, 2018, the State of California began licensing commercial cannabis businesses for both medicinal and adult marijuana use throughout the State;

WHEREAS, this newly licensed commercial cannabis industry is evolving quickly and the State is changing its regulation of the industry as quickly, including the passage of Senate Bill 94 in 2017, also known as the “Medicinal and Adult Use Cannabis Regulation and Safety Act” or “MAUCRSA,” which revised references to “marijuana” and “medical cannabis” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively;

WHEREAS, the City Council has determined that amendment and modification of some of the City of Firebaugh’s provisions regulating the operation of commercial cannabis businesses, and repeal and replacement of the Marijuana Ordinance, is necessary to conform the City of Firebaugh Municipal Code to recent State law changes, to clarify the City’s regulatory intent, to provide adequate notice and due process to any cannabis-related business that wishes to operate in the City, and to address fully the adverse secondary impacts, including but not limited to, nuisance impacts, and criminal impacts of cannabis-related businesses within the City’s jurisdiction; and

WHEREAS, the City Council has determined that amendment, repeal and replacement of the Marijuana Ordinance is necessary to also address the cultivation and use of recreational and medical cannabis in the City of Firebaugh.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FIREBAUGH DOES ORDAIN AS FOLLOWS:

Section 1. Section 25-29.2 (Industrial Zones: Permitted Uses) of the Firebaugh Municipal Code is hereby amended (additions are shown in bold; deletions are stricken through):

Use	Zone	
	M-1 Zone	M-2 zone
1. Assembling, cleaning, manufacturing, processing repairing or testing of products, conducted within an enclosed structure, or within a screened outdoor storage area, except for the following uses listed under 1(a) through 1(k), which are permitted only in the M-2 zone by Conditional Use Permit	P	P
a. Drop forges	-	CUP
b. Fertilizer manufacturing	-	CUP
c. Animal processing, including slaughterhouses, reduction, rendering and glue manufacturing	-	CUP
d. Petroleum products manufacturing, processing- and storage, including oils, gasoline, natural gas, paints and tar	-	CUP
e. Incinerators	-	CUP
f. Metal industries (ores, reduction, refining, smelting and alloying)	-	CUP
g. Paper and paper product manufacturing	-	CUP
h. Textile mills	-	CUP
i. Chemical manufacturing	-	CUP
j. Rubber manufacturing	-	CUP
2. Assembling, cleaning, manufacturing, processing, repairing or testing of products not listed under 1(a) through 1(b) that are conducted primarily outdoors.	CUP	CUP
3. Agricultural services and industries, including the following:		
a. Food and dairy processing	P	P
b. Cannabis cultivation, manufacturing, processing, extraction, testing, transportation and distribution (<i>All Cannabis activities</i>)	-	CUP, subject to standards contained in Chapter 25-41.13
b.c. Canneries	P	P
c.d. Cold storage facilities	P	P
d.e. Crop cultivation	P	P
e.f. Grain storage and processing	P	P
f. Marijuana cultivation, manufacturing, testing, transportation and distribution	-	CUP, subject to standards contained in Section 25-41.13
g. Nurseries	P	P
h. Packing houses	P	P
i. Veterinary services, livestock and large animals, including animal boarding	P	P
j. Animal sales yards	CUP	P
k. Agricultural exhibits, including sales, displays, large assembly of people and livestock	P	P

4. Automobile-oriented uses, including auto repair, tire shops, painting, upholstery, etc.	P	P
5. Concrete batch plants, processing of minerals, and aggregate and related materials, sand and gravel storage	CUP	P
6. Dwelling for a caretaker or security guard on the site of an approved use.	CUP	CUP
7. Fuel dealer and service stations	CUP	P
8. Airports, heliports/helipads	CUP	CUP
9. Farm supply stores	P	P
10. Lumber yards	P	P
11. Kennels	P	P
12. Mini storage facilities and storage buildings	P	P
13. Offices	P	P
14. Retail uses conducted as part of, and incidental to an established manufacturing operation (such as a candy store on the site of a candy manufacturing operation)	P	P
15. Research and development operations, including laboratories.	P	P
16. Recycling collection and processing facilities.	P	P
17. Salvage and wrecking facilities and junk yards		CUP
18. Towing services	P	P
19. Trucking, Transportation and distribution	P	P
20. Truck stops	CUP	CUP
21. Upholstery shops	P	P
22. Vehicle storage	P	P
23. Warehousing and wholesaling	P	P
24. Equipment rental and sales yards including farm equipment rental and sales	P	P
25. Building contractor offices and yards	P	P
26. Miscellaneous uses, including:		
a. Accessory uses on the site of a permitted use or conditionally-permitted use	P	P
b. Parking facilities on separate lots	P	P
c. Communications equipment buildings and structures (including wireless telecommunications facilities), public utility service yards, gas regulator stations, pumping stations, storm drainage reservoirs, public water wells, electric distribution substations and transmission line structures	CUP	CUP
d. Private fueling stations located on-site with a permitted or conditionally permitted use	P	P
e. Other uses determined to be similar in nature and intensity to those permitted in that particular zone, as determined by the city planner	P	P
f. Other uses determined to be similar in nature and intensity to those conditionally permitted in that particular zone, as determined by the city planner	CUP	CUP

Section 2. Section 25-41.13 of the Firebaugh Municipal Code is hereby amended to read as follows:

Chapter 25-41.13 – CANNABIS CONTROL ORDINANCE

25-41.13.1 – GENERAL PROVISIONS.

25-41.13.1.1 - Findings and purpose.

It is the purpose and intent of this chapter to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of cannabis, whether for medical purposes or recreational or adult use as currently allowed under State law.

25-41.13.1.2 - Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

“Act” means the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), including implementing regulations, as the Act and implementing regulations may be amended from time to time. Definitions in this section referencing provisions of the Act shall also include amendments to the Act.

“Applicant” means a person who is required to file an application for a permit under this chapter.

“Business Owner” means the owner(s) of the Cannabis Operations. “Owner” means any of the following:

- a. A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- b. The chief executive officer, president, and vice president of a nonprofit or other corporate entity.
- c. A member of the board of directors of a nonprofit.
- d. An individual who will be participating in the direction, control, or management of the entity or person applying for a license.

“Cannabis” shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (f). “Cannabis” and “marijuana” may be used interchangeably, but shall have the same meaning.

“Cannabis dispensary” or “dispensary” means any facility or location, whether fixed or mobile, and any building or structure, where cannabis is made available to, distributed by, or distributed to more than two persons for sale or barter.

“Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, cannabidiol (CBD), or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“City” means the City of Firebaugh.

“Collective or cooperative cultivation” means an association within California of qualified patients, persons with valid identification cards, and designated primary caregivers to cultivate cannabis for medical purposes as may have been allowed under the Compassionate Use Act of 1996, the “Medical Marijuana Program Act,” or the California “Medical Cannabis Regulation and Safety Act” adopted on October 9, 2015 through legislative bills AB 243, AB 266, and SB 643.

“Commercial Cannabis Operation” means any commercial cannabis activity, and all facilities and equipment that support that activity, as set forth in California Business and Professions Code section 26001, subdivision (k) and allowed under the Act, and as the Act and implementing regulations may be amended from time to time.

“Commercial Cannabis Regulatory Permit” or “Regulatory Permit” means the permit required under this chapter to operate a Commercial Cannabis Operation.

“Cultivate” or “cultivation” shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (l) and shall also include the storage of one or more cannabis plants or any part thereof in any location.

“Delivery” shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (p) and shall also include any technological platform that enables persons to arrange or facilitate the transfer of cannabis.

“Employee Permit” means the permit required under this chapter for every employee or independent contractor working at a Commercial Cannabis Operation or involved in transportation/Delivery-related services for a Commercial Cannabis Operation, other than solely as a vender or a certificated common carrier.

“Medicinal Cannabis” or “medical cannabis use” means the use of cannabis for the purposes set forth in California Health and Safety Code sections 11362.5 and 11362.7, *et seq.*

“Operator” means the Business Owner and any other person designated by the Business Owner as responsible for the day-to-day Commercial Cannabis Operation.

“Ordinance” means the ordinance enacting this chapter, and including the terms of this and related sections, which may be commonly referred to as the City’s “Cannabis Control Ordinance.”

“Police Chief” means the Police Chief of the City of Firebaugh or his or her designee.

“Premises” or “Site” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the Applicant or permittee where the Commercial Cannabis Operation will be or is conducted. The Premises shall be a contiguous area and shall only be occupied by one permittee.

“Premises Owner” means the fee owner(s) of the Premises where Commercial Cannabis Operations are occurring.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code sections 11362.5 and 11362.7, *et seq.*

“Property owner” is the title holder of real property within the City of Firebaugh.

“Qualified patient” shall have the same definition as set forth in California Health and Safety Code sections 11362.5 and 11362.7, *et seq.*

“Recreational cannabis,” “recreational cannabis use,” or “adult use cannabis” means all uses of cannabis not included within the definition of medicinal cannabis use.

“Responsible Party” shall mean the Business Owner, Operator, manager(s), and any employee having significant control over the Commercial Cannabis Operations.

25-41.13.2 - Regulations applicable to the cultivation of Medicinal Cannabis.

To the extent that the City is required to allow the cultivation of medical marijuana under State law and, except as provided for in this Ordinance, the rules set forth herein shall apply.

a. *Personal-use cultivation.* An individual qualified patient or person with an identification card shall be allowed to cultivate Medicinal Cannabis indoors within his/her private residence, or an attached garage. For owner-occupied residences, cultivation shall be allowed in an accessory building on the same property. A primary caregiver shall only cultivate Medicinal Cannabis at the residence of a qualified patient or person with an identification card for whom he/she is the primary caregiver. Medicinal Cannabis cultivation for personal use shall be subject to the following requirements:

1. *Area.* The medical marijuana cultivation area shall not exceed thirty-two (32) square feet measured by the canopy and not exceed ten feet (10') in height per residence. This limit applies regardless of the number of qualified patients or persons with an identification card residing in the residence. The cultivation area shall be a single, contiguous designated area.
2. *Lighting.* Medicinal Cannabis cultivation lighting shall not exceed a total of 1200 watts.
3. *Building Code Requirements.* Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, set back, height requirements, and parking requirements.
4. *Gas products or flammable or volatile chemicals.* The use of gas products (carbon dioxide, butane, etc.) or flammable or volatile chemicals for Medicinal Cannabis cultivation or processing is prohibited.
5. *Evidence of cultivation.* No evidence of Medicinal Cannabis cultivation shall be visible from a public right-of-way or from adjacent property.
6. *Residence.* The qualified patient or person with an identification card shall reside in the residence where the Medicinal Cannabis cultivation occurs.
7. *Incidental use.* The residence shall maintain kitchen, bathrooms, and at least one bedroom for their intended uses. Such rooms shall not be used primarily for cannabis cultivation.
8. *Ventilation.* The Medicinal Cannabis cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or beyond the property line for detached single-family residences, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation, or § 402.3 Mechanical Ventilation, or its equivalent(s).
9. *Storage of chemicals.* Any chemicals used for Medicinal Cannabis cultivation shall be stored outside of the habitable areas of the residence and outside of public view from neighboring properties and public rights-of-way.
10. *Nuisance.* The Medicinal Cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, nor shall it be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

11. *Property owner authorization.* For rental properties, the lessee shall obtain written authorization from the property owner or property-management Company to cultivate personal-use or medical marijuana. Such written authorization shall be maintained on the premises at all times and presented at the request of the City.
12. *Additional requirements for garages and accessory buildings.* The following additional requirements shall apply for personal-use cultivation that occurs in a garage or accessory building: (A) The garage or accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque; (B) the garage or building shall include a burglar alarm monitored by an alarm company or private security company; (C) the garage or building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door; and (D) extension cords or other make-shift equipment on the exterior of a building used to supply power for cannabis cultivation is prohibited.
13. *Posting of physician recommendation or identification card; posting of owner permission.* A copy of a qualified patient physician recommendation or identification card shall be posted in a conspicuous place in the cultivation area for each patient residing in the residence who is cultivating Medicinal Cannabis. For rental properties, a copy of the owner's written authorization to cultivate Medicinal Cannabis shall be posted in the same manner.

b. *Collective or cooperative cultivation.* The collective or cooperative cultivation of Medicinal Cannabis is prohibited in the City of Firebaugh.

25-41.13.3 - Regulations applicable to the cultivation of recreational or adult use cannabis.

To the extent that the City is required to allow the cultivation of recreational or adult use cannabis under State law, and except as provided for in Section 25-41.13.6, the rules set forth herein shall apply.

- a. *State law limits.* The cultivation of recreational or adult use cannabis shall be subject to the limits set forth in any applicable State law. At the time of adoption of this chapter, applicable State law limits the cultivation of recreational or adult use cannabis to six (6) plants per residence.
- b. *Compliance with medicinal cannabis personal-use cultivation rules.* All persons lawfully allowed to cultivate recreational or adult use cannabis under State law shall be subject to the same rules, requirements, and limitations applicable to the personal-use cultivation of medical marijuana set forth in Section 25-41.13.2(a).

25-41.13.4 - Regulations applicable to Commercial Cannabis Operations, Dispensaries, and Deliveries.

- a. *Commercial Cannabis Operations.* Except as provided for in Sections 25-41.13.5 and 25-41.13.6, Commercial Cannabis Operations as defined in section 25-41.13.2 are prohibited within the City of Firebaugh.
- b. *Dispensaries.* Cannabis Dispensaries as defined in Section 25-41.13.2 are prohibited within the City of Firebaugh.
- c. *Deliveries.* The Delivery of cannabis as defined in Section 25-41.13.2, except as among permitted Commercial Cannabis Operations, is prohibited within the City of Firebaugh, regardless of whether the Delivery is initiated within or outside of the City of Firebaugh, and regardless of whether a technology platform is used for Delivery by the Commercial Cannabis Operation.

25-41.13.5 – Exceptions to Dispensary ban for certain healthcare facilities.

The following facilities providing Medicinal Cannabis to patients are not subject to the provisions of Section 25-41.13.4, provided they are in strict compliance with Health and Safety Code sections 11362.5 and 11362.7, *et seq.*, and all other State and local laws pertaining the uses, including zoning, permitting, and licensing requirements:

- A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.
- A healthcare facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.
- A residential-care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code.
- A residential-care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code.
- A residential hospice, or a home-health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

25-41.13.6 – Limited Commercial Cannabis Operations pursuant to Regulatory Permit.

Notwithstanding the prohibition on Commercial Cannabis Operations set forth in Section 25-41.13.4, and the limitations upon the cultivation of cannabis set forth in Sections 25-41.13.3 and 25-41.13.4, Commercial Cannabis Operations may be allowed as set forth in this Section.

a. *Purpose.* The purpose of this Section is to allow limited Commercial Cannabis Operations in the City of Firebaugh as may be permitted under the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA” or “Act”) and to adopt local regulations applicable to those operations.

b. *Permitted Uses.* Business Owners meeting the requirements of this section shall be eligible to apply for a Regulatory Permit to conduct the following Commercial Cannabis Operations, as may be approved by the City Council at its discretion:

- Cultivation.
 - Processing.
 - Extraction.
 - Manufacturing.
 - Testing.
 - Distribution.
 - Transportation.
1. The Regulatory Permit issued pursuant to this Section shall specify whether the Commercial Cannabis Operation shall be limited to Medicinal Cannabis.
 2. The Regulatory Permit issued pursuant to this Section shall specify the precise Commercial Cannabis Operation, by clear description and, when appropriate, shall reference the license type specified in the Act for which a State license is being sought.
 3. The Commercial Cannabis Operation shall at all times be in compliance with this Section as it may be amended from time to time or repealed and replaced by another section governing Commercial Cannabis Operations.

4. No Regulatory Permit shall issue unless or until the Business Owner and the Property Owner enter into a Project Development Agreement with the City.
 5. Dispensaries are expressly prohibited as set forth in Section 25-41.13.4.
 6. The City Council retains the discretion to deny a Regulatory Permit or limit a Regulatory Permit to specified Commercial Cannabis Operations.
- c. *Minimum Operational Requirements and Restrictions.* The following operational requirements and restrictions shall apply to all Commercial Cannabis Operations:
1. *The Act and Other State Laws.* The Commercial Cannabis Operations shall at all times be in compliance with the Act and the implementing regulations, as they may be amended from time to time, as well as all State license(s) required under the Act, and any other applicable State law. The Operator shall obtain all licenses required under the Act prior to opening for business.
 2. *Register of Employees.* The Operator shall maintain a current register of the names of persons required to have Employee Permits. The register shall be made available to the Police Chief at all times immediately upon request.
 3. *Signage.* There shall be no signage or markings on the Premises or off-site that in any way evidences that Commercial Cannabis Operations are occurring on the property. Interior building signage is permissible provided the signage is not visible outside of the building.
 4. *Cannabis Consumption.* No cannabis or cannabis product shall be smoked, ingested or otherwise consumed on the Premises. Prominent signage of this prohibition shall be displayed throughout the facility.
 5. *Alcoholic Beverages.* No Commercial Cannabis Operation shall hold or maintain a retail license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol for personal consumption shall not be provided, stored, kept, located, sold, dispensed, or used on the Premises.
 6. *Transportation.* Transportation shall only be conducted as permitted by State law.
 7. *Deliveries.* There shall be no deliveries of cannabis or cannabis-containing products from the Premises, except to another State or local licensed or permitted cannabis business.
 8. *Non-Commercial Cannabis Activity.* No non-commercial or Recreational Cannabis activity shall occur on the Premises.
 9. *Retail Sales.* The retail sale of cannabis is expressly prohibited.
 10. *Public Access.* There shall be no public access to the Premises.
 11. *Minors.* It shall be unlawful for any Operator to employ any person who is not at least twenty-one (21) years of age.
 12. *Distance Separation from Schools, Daycare Centers and Youth Centers.* A Commercial Cannabis Operation shall not be located within 600 feet from any existing school, daycare center or youth center as defined by State law, nor from a proposed school site as identified in the General Plan. Measurements shall be from property boundary to property boundary. For purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
 13. *Hours of Operation.* Commercial Cannabis Operations shall be allowed to operate per the requirements of the underlying zone district and subject to the City's noise and nuisance ordinances.

14. *Building and Related Codes.* The Cannabis Operation shall be subject to the following requirements:
- (A) The Premises in which the Commercial Cannabis Operations occur shall comply with all applicable local, State, and federal laws, rules, and regulations including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the Building Official of the City. The Operator shall obtain all required building permits and comply with all applicable City standards.
 - (B) The Responsible Party shall ensure that the Premises have sufficient electrical load for the Commercial Cannabis Operations.
 - (C) To the extent permitted by the Act, butane and other flammable materials are permitted to be used for extraction and processing provided the Operator complies with all applicable fire and building codes, and any other laws and regulations relating to the use of those products, to ensure the safety of that operation. The Firebaugh Fire Department, or other qualified agency retained by the City, shall inspect and approve the Premises for use of the products prior to City's issuance of a certificate of occupancy, or otherwise prior to opening for business, to ensure compliance with this requirement. Such inspection shall be at the Business Owner's expense.
 - (D) The Operator shall comply with all laws and regulations pertaining to use of commercial kitchen facilities for the Commercial Cannabis Operations.
 - (E) The Operator shall comply with all environmental laws and regulations pertaining to the Commercial Cannabis Operations, including the storage, use and disposal of water and pesticides, and shall otherwise use best practices to avoid environmental harm.
15. *Odor control.* Business Owner shall provide an odor-absorbing ventilation and exhaust system, so that odor generated inside the facility that is distinctive to its Commercial Cannabis Operations is not detected outside the Premises, outside the building housing the Commercial Cannabis Operations, or anywhere on adjacent property or public rights-of-way. Accordingly, Business Owner must install and maintain the following equipment or any other equipment which the City's Building Official determines has the same or better effectiveness:
- (A) An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally; or
 - (B) An air system that creates negative air pressure between the cannabis facilities's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.
16. *Consumable Products.* Commercial Cannabis Operations that manufacture products in the form of food or other comestibles shall obtain and maintain all appropriate approvals from the State and County Departments of Public Health for the provision of food or other comestibles, unless otherwise governed by the Act and licensed by the State.
17. *Secure Building.* All Commercial Cannabis Operations shall occur entirely inside of a building that shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. Notwithstanding the foregoing, the roof may be of solid non-opaque material, provided other security measures exist to ensure that the Commercial Cannabis Operation cannot be seen, heard or smelled beyond the property line. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures (including, without limitation, commercial greenhouse structures). The precise building construction parameters and materials to be used shall be identified and provided with the application to the City prior to construction.

18. *Premises Security.* The following security conditions shall apply:

- (A) Alarm System (including perimeter, fire and panic).
- (B) Remote monitoring of alarm systems.
- (C) Perimeter lighting systems (motion sensor) for after-hours security.
- (D) Perimeter security and lighting as approved by the Police Chief.
- (E) Use of drive gates with card key access or similar to access the facility.
- (F) Entrance areas to be locked at all times, and under the control of a designated Responsible Party.
- (G) Use of access-control systems to limit access to grow and processing areas.
- (H) Exterior and interior camera systems approved by the Police Chief. The camera systems shall meet the minimum requirements of the Act, include interior monitoring of all access points to the site from the interior, and be of a minimum five (5) mega-pixel resolution.
- (I) All security systems at the site are attached to an uninterruptable power supply providing 24-hour power.
- (J) 24-hour security patrols by a recognized security company licensed by the California Department of Consumer Affairs or otherwise acceptable to the Police Chief. All current contact information regarding the security company shall be provided to the Police Chief.
- (K) Firebaugh Police Department or Department designee shall have access to all security systems.
- (L) Internet Protocol ("IP") access for remote monitoring of security cameras by the Firebaugh Police Department or a department designee upon request.
- (M) Any and all video or audio tape recordings made for security purposes shall be marked with the date and time made and shall be kept, in an unaltered state, for a period of at least thirty (30) days and must be made available to the Firebaugh Police Department or Department designee for duplication upon demand. In addition, upon request by the Firebaugh Police Department, the Responsible Party shall duplicate the records for the Firebaugh Police Department or the Department designee.
- (N) Hardened bullet-resistant windows for exterior windows as part of any new or existing construction.
- (O) Accounting software systems need to be in place to provide audit trails of both product and cash, where applicable.
- (P) Electronic track-and-trace systems for cannabis products as required by the Act and State regulations.
- (Q) The City may inspect the Premises and audit the records of the Commercial Cannabis Operations for compliance on a quarterly basis.
- (R) Security protocols and equipment need to be in place to protect computer information.
- (S) The foregoing Premises security requirements shall be approved by the Police Chief prior to commencing operations. The Police Chief may supplement these security requirements once operations begin, subject to review by the City Council if requested by the Business Owner.

19. *Deliveries of Supplies and Transportation of Product.* The following rules apply to the Deliveries and transportation:

- (A) Deliveries of supplies to the Premises shall only occur as provided for in diagram and floor plans on file with the City as part of the application process. Delivery vehicles shall not have any markings indicating that deliveries are being made to a Cannabis Operation.
- (B) The transportation of cannabis samples and/or products to and from the Premises shall be in unmarked vehicles with no indication that the vehicles are transporting cannabis samples and/or products. The Responsible Party shall stagger transportation times, vary routes from the facility, and take other security measures as requested by the Police Chief.

20. *Premises Maintenance.* The Business Owner, Operator, and all Responsible Parties shall continually maintain the Premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety, and general welfare of employees, patrons, surrounding properties, and the general public. The Premises or Commercial Cannabis Operation shall not be maintained in a manner that causes a public or private nuisance.

21. *Location of Uses.* The Commercial Cannabis Operation permitted by this section shall only be allowed in the locations designated on the diagram and floor plans of the Premises submitted with the application for a Regulatory Permit. The Commercial Cannabis Operation shall not operate at any location other than as stated in the Regulatory Permit.

d. *Commercial Cannabis Operation Regulatory Permit.* No person or entity shall operate a Commercial Cannabis Operation within the City of Firebaugh without first obtaining a Commercial Cannabis Regulatory Permit from the City. The Regulatory Permit shall be site-specific and shall specifically identify the commercial cannabis activity that will be allowed at that site. No commercial cannabis activity will be allowed unless specifically identified in the Regulatory Permit. The issuance of a Regulatory Permit shall be at the discretion of the City Council.

e. *Applications for Regulatory Permits and Responsible Party Designation.*

Application. Applicants for Regulatory Permits shall file their applications with the Police Chief and shall include the information set forth herein. The Police Chief may request such additional information he or she deems necessary to determine who the Applicant is and what activity may be permitted. The Applicant shall certify under penalty of perjury that all of the information contained in the application is true and correct. The application shall contain the following items for the Business Owner, Operator, all Responsible Parties known at the time (if different than the Business Owner), and any other party designated below:

- (A) The full name, present address, and telephone number.
- (B) Date of birth.
- (C) Tax identification number.
- (D) The address to which notices relating to the application are to be mailed.
- (E) Previous addresses for the five (5) years immediately preceding the submission of the application.
- (F) His or her height, weight, and color of eyes and hair.
- (G) Photographs for identification purposes (photographs shall be taken by the Police Department).

- (H) All business, occupation, or employment for the five (5) years immediately preceding the submission of the application.
- (I) The Commercial Cannabis Operation business history, including whether the Business Owner and Responsible Parties, while previously operating in this or another city, county or state, has had a cannabis-related license revoked or suspended, the reason therefore, and the business, activity or occupation subsequent to such suspension or revocation.
- (J) Complete property ownership and lease details, where applicable. If the Business Owner is not the Premises Owner, the application must be accompanied with a notarized acknowledgment from the Premises Owner that Commercial Cannabis Operations are authorized to occur on the Premises.
- (K) A descriptive business plan for the Commercial Cannabis Operation, including a detailed list of all Commercial Cannabis Operations proposed to occur on the Premises.
- (L) A diagram and floor plan of the entire Premises, denoting all the use of areas proposed for Commercial Cannabis Operations, including, but not limited to, cultivation, processing, manufacturing, testing, transportation, deliveries, and storage. The diagram and floor plan need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the Premises to an accuracy of plus or minus six (6) inches.
- (M) The name or names of the Operator. The Operator shall designate one or more Responsible Parties, one of which shall at all times be available as a point of contact for the City, 24 hours per day. The contact information of the Operator and Responsible Parties shall be provided to the Police Chief and updated within twenty-four (24) hours of any changes.
- (N) The proposed security arrangements for ensuring the safety of persons and to protect the Premises from theft.
- (O) An accurate straight-line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Cannabis Operation and the property line of any school as set forth in the Operational Requirements.
- (P) Authorization for the City and its agents and employees to seek verification of the information submitted.

1. *Improper or Incomplete Application.* If the applicant has completed the application improperly, or if the application is incomplete, the Police Chief shall, within thirty (30) days of receipt of the original application, notify the applicant of such fact.
2. *Changes in Information.* Except as otherwise provided, the information required by this subsection (e) shall be updated with the Police Chief upon any change within ten (10) calendar days.
3. *Other Permits or Licenses.* The fact that an Applicant possesses other types of State or City permits or licenses does not exempt the Applicant from the requirement of obtaining a Regulatory Permit.

f. *Employee Permits.*

1. *Permit Required.* Every employee or independent contractor working at a Commercial Cannabis Operation or involved in transportation/Delivery related services for a Commercial Cannabis Operation, except for vendors and certificated common carriers, shall obtain an Employee Permit. It shall be the duty of the Operator to ensure that Employee Permits are obtained from the Police Department prior to the employee or independent contractor commencing work. Persons who are listed as a Business Owner on a Regulatory Permit shall not be required to obtain an Employee Permit, if such person also serves as an employee or contractor. All Responsible Parties, except the Business Owner, shall be required to obtain an Employee Permit.

2. *Application.* Each employee and independent contractor shall be required to provide the following information under penalty of perjury, so the Police Department can perform a background check:

(A) Name, current residence address, and telephone number.

(B) Date of birth.

(C) Tax identification number.

(D) His or her height, weight, and color of eyes and hair.

(E) Photographs for identification purposes (photographs shall be taken by the Police Department).

(F) Fingerprinted by the Police Department.

(G) Such other identification and information as deemed necessary by the Police Chief and pertinent to the Employee Permit.

(H) Authorization for the City and its agents and employees to seek verification of the information contained within the application.

(I) The name of the Business Owner holding the Regulatory Permit and the Operator for which such person is proposed to work.

g. *Application Fees.*

Every application for a Regulatory Permit, Employee Permit, or Employee Permit renewal shall be accompanied by a nonrefundable fee, as established by resolution of the City Council. This fee shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks, and the general review and processing of the application. As an alternative to the Regulatory Permit fee, the City and Applicant may enter into a specific Project Processing Costs Agreement.

h. *Investigation and Action on Application.*

1. Upon the filing of a properly-completed application and the payment of the fee, the Police Chief shall conduct an investigation of the application, including a background check of the Applicant and all employees and independent contractors. All Applicants for a Regulatory Permit and Employee Permit shall be required to submit to a fingerprint-based criminal history records check conducted by the Firebaugh Police Department.
2. For Regulatory Permits, after the background checks and investigation are complete, and in no case later than one hundred twenty (120) days after receipt of a properly completed application, the Police Chief shall issue a recommendation that the City Council approve or deny a Regulatory Permit in accordance with the provisions of this section. The recommendation for approval shall include conditions the Police Chief deems reasonable under the circumstances to protect the public health, safety, and welfare of the community. The recommendation shall be forwarded to the City Council for action following any required noticing and public hearings, and may be processed concurrently with any other development application(s) necessary for the Commercial Cannabis Operation.
3. For Employee Permits, after the background checks and investigation are complete, and in no case later than thirty (30) days after receipt of a properly-completed application, the Police Chief shall either approve or deny an Employee Permit. At the discretion of the Police Chief, Employee Permits may be conditionally approved pending the background investigation.

i. *Term of Permits and Renewals.*

Employee Permits issued under this Section shall expire one (1) year following the date of issuance. Applications for renewal shall be made at least forty-five (45) days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this section. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed.

j. *Grounds for Denial of Regulatory Permit.*

The City Council may in its sole discretion deny a Regulatory Permit or limit a Regulatory Permit to specified uses. When considering whether to deny or limit a Regulatory Permit, the Council shall consider the following:

1. Whether the business or conduct of the business at a particular location is prohibited by any local or State law, statute, rule, or regulation.
2. Whether the Business Owner or Operator has been issued a local or State permit related to Commercial Cannabis Operations at any other location in California, or another state; whether that permit was suspended or revoked; and whether the Business Owner or Operator has had disciplinary action relating to the permit.
3. Whether the Business Owner or Operator has knowingly made a false statement of material fact or has knowingly omitted a material fact in the application.
4. Whether the Business Owner or Operator, or any Responsible Person, has been:
 - (A) Convicted of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code;
 - (B) Convicted of a serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code;
 - (C) Convicted of a felony involving fraud, deceit, or embezzlement.
 - (D) Convicted of a felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;
 - (E) Convicted of a felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code;
 - (F) Subject to fines, penalties, or otherwise sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code;
 - (G) Sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three (3) years immediately preceding the date the application is filed with the City.

A conviction for any controlled substance felony subsequent to permitting shall be grounds for revocation of a Regulatory Permit or denial of the renewal of a Regulatory Permit. A "conviction" within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5. Whether the Business Owner or Operator has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

6. Whether the Business Owner or Operator is under twenty-one (21) years of age, or any older other age set by the State.
7. Whether the Cannabis Operation complies with the zoning ordinance or development standards of the City of Firebaugh.
8. Whether the required business license fee, annual regulatory fee, Revenue Raising Fee, or other City fees and/or taxes have been paid.
9. Such other grounds the Council determines are reasonable.

k. *Grounds for Denial of Employee Permit.* The grounds for denial of an Employee Permit shall be one or more of the following:

The Applicant has been issued a local or State permit related to Commercial Cannabis Operations at any other location in California, or another state, and that permit was suspended or revoked, or the Applicant has had disciplinary action relating to the permit.

1. The Applicant has been:
 - (A) Convicted of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code;
 - (B) Convicted of a serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code;
 - (C) Convicted of a felony involving fraud, deceit, or embezzlement.
 - (D) Convicted of a felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;
 - (E) Convicted of a felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code;
 - (F) Subject to fines, penalties, or otherwise sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code;
 - (G) Sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three (3) years immediately preceding the date the application is filed with the City.
2. The Applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
3. The Applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit.
4. An Applicant is under twenty-one (21) years of age, or any older age set by the State.

1. *Notice of Decision and Final Action.*

1. *Regulatory Permit.* Action on the Regulatory Permit shall be as follows:

(A) The Police Chief shall cause a written notice of his or her recommendation on the issuance or denial of a Regulatory Permit, and the date and time when the City Council will consider action on the Regulatory Permit, to be personally delivered or mailed to the Applicant by certified U.S. mail, postage prepaid.

(B) Following a public hearing, the Council may grant the Regulatory Permit, limit the Regulatory Permit to specified uses, or deny the issuance of the Regulatory Permit for any of the grounds specified in this Section. In granting a Regulatory Permit, the Council may impose such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community. The decision of the Council shall be final, subject to judicial review below.

2. *Employee Permit.* Action on the Employee Permit shall be as follows: The Police Chief shall cause a written notice of his or her determination on the issuance or denial of an Employee Permit to be personally delivered or mailed to the Applicant by certified U.S. mail, postage prepaid. The Police Chief's decision on an Employee permit shall be final.

m. *Suspension and Revocation of Regulatory Permit or Employee Permit.*

1. *Regulatory Permit.* The City Council may suspend or revoke the Regulatory Permit of a Commercial Cannabis Operation when any of the following occur:
- (A) The Commercial Cannabis Operation is conducted in violation of any provision of this Section, the Act, or any other applicable law.
 - (B) The Commercial Cannabis Operation is conducted in such a manner as to create a risk of danger to the public health or safety.
 - (C) A failure to pay the Regulatory Fee, the Revenue Raising Fee, or all City taxes as required.
 - (D) A failure to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the Premises, traffic control problems, or obstruction of the operation of another business.
 - (E) A failure to comply with the terms and conditions of the Regulatory Permit or any conditional use permit issued in connection therewith.
 - (F) Any act which would be considered grounds for denial of the Regulatory Permit in the first instance.
2. *Employee Permit.* The Police Chief may suspend or revoke an Employee Permit when the permittee or the employee has committed any one or more of the following acts:
- (A) Any act which would be considered a ground for denial of the permit in the first instance.
 - (B) Violates any provision of this Section, the Act, or any other applicable law relating to the Commercial Cannabis Operation.
 - (C) Violates or fails to comply with the terms and conditions of the Employee Permit.
3. *Procedures for Revoking Regulatory Permits.* For Regulatory Permits, the procedures for revoking conditional use permits shall be utilized, except that the matter shall be heard by the City Council in the first instance.

4. *Procedures for Revoking Employee Permits.* Prior to suspension or revocation of an Employee Permit, the Police Chief shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid to the last known address. Any permittee aggrieved by the decision of the Police Chief to suspend or revoke an Employee Permit shall have no appeal rights and the Police Chief's decision shall be final, subject to judicial review as set forth in this section.
5. *Immediate Suspension.* The Police Chief may immediately suspend or revoke a Regulatory Permit or an Employee Permit without notice or a hearing, subject to the appeal rights set forth herein, under the following circumstances:

- (A) The Business Owner, Operator or Responsible Party is convicted of a public offense in any court for the violation of any law which relates to the Cannabis Operation, or in the case of an Employee Permit, the employee is convicted of a public offense in any court for the violation of any law which relates to the permit.
- (B) The Police Chief determines that immediate suspension is necessary to protect the public health, safety, and welfare of the community. The Police Chief shall articulate the grounds for the immediate suspension in writing and the suspension shall only be for as long as necessary to address the circumstances which led to the immediate suspension.

n. *Effect of Denial or Revocation.* When the City Council shall have denied or revoked a Regulatory Permit, or the Police Chief shall have denied or revoked an Employee Permit, no new application for a Regulatory Permit or an Employee Permit shall be accepted and no Regulatory Permit or Employee Permit shall be issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one (1) year after the action denying or revoking the Regulatory Permit or Employee Permit.

o. *Abandonment.* A Regulatory Permit shall be deemed abandoned if Commercial Cannabis Operations cease for a period of more than ninety (90) consecutive days. Before restarting operations, a new Regulatory Permit shall be secured. The 90-day period shall be tolled during periods of force majeure, which shall be defined as follows: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the "public enemy"; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; or any other causes beyond the reasonable control of the permittee.

p. *Fees and Taxes.* All Commercial Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following.

1. *Business License Fee.* The Business Owner shall at all times maintain a current and valid business certificate and pay all business taxes required by Title 5, Chapter 5.04, of the Firebaugh Municipal Code pertaining to Business Licensing.
2. *Regulatory License Fee.* The Business Owner shall pay an annual regulatory license fee ("Regulatory Fee") to cover the costs of services, including but not limited to, anticipated enforcement relating to the Commercial Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional service costs associated with the Commercial Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

3. *Revenue Raising Fee.* An annual revenue raising fee ("Revenue Raising Fee") shall be applied for the privilege of having the right to operate in the City and provided as a condition of the development agreement.

(A) *Revenue Raising Fee Finding.* The City Council specifically finds that it is approving this Ordinance allowing Commercial Cannabis Operations to operate in the City with the express understanding that the business will pay the Revenue Raising Fee to the City as set forth herein, and that without the Revenue Raising Fee, the City Council would not have adopted this Ordinance allowing Commercial Cannabis Operations to operate in the City. By opening a Commercial Cannabis Operation in the City, the Premises Owner, Business Owner, Operator, and all Responsible Parties agree that, if the Revenue Raising Fee is challenged by any one of them or a third party and set aside, the business must cease operation.

(B) *Amount of Fee and Terms of Payment.* The Revenue Raising Fee shall be an annual fee of twenty-five dollars (\$25.00) per square foot for the first 3,000 square feet, which shall be the minimum annual fee for all Commercial Cannabis Operations, and ten dollars (\$10.00) per square foot for the remaining space utilized in connection with each Commercial Cannabis Operation. The square footage calculation shall be determined by including all portions of the Premises under the control of the Business Owner and deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the Commercial Cannabis Operation (such as a janitorial closet). The total under-canopy square footage shall be included in the square footage calculation.

(C) If more than one Commercial Cannabis Operation operates on the Premises, whether within a single building or multiple buildings, each Regulatory Permit holder shall be responsible for paying the Revenue Raising Fee. The Revenue Raising Fee shall be payable in advance, in not less than quarterly installments, with the first quarterly payment due prior to issuance of a certificate of occupancy. The first payment shall not be prorated, and in no event shall the first payment be less than the equivalent of one full quarterly payment. All quarterly payments shall be received by the City before the end of the quarter.

(D) *Alternative Voter-Approved Tax.* If the voters of the City approve a tax on Commercial Cannabis Operations, the Business Owner shall pay that tax in lieu of the Revenue Raising Fee, once the City begins to collect the tax revenue.

q. *Recordkeeping.* The Responsible Party shall make and maintain complete, accurate, and legible records of the permitted Commercial Cannabis Operations evidencing compliance with the requirements of this section. Those records shall be maintained for a minimum of five (5) years.

r. *Inspection.* Commercial Cannabis Operations shall be open for inspection by any City law enforcement officer, City code enforcement officer, or City financial auditor or their designees at any time the Commercial Cannabis Operation is operating, at any other time upon responding to a call for service related to the property where the Commercial Cannabis Operations is occurring, or otherwise upon reasonable notice. Recordings made by security cameras at any Commercial Cannabis Operation shall be made immediately available to the Police Chief upon verbal request. No search warrant or subpoena shall be needed to view the recorded materials.

s. *Indemnification.* In authorizing Commercial Cannabis Operations under this section, the City makes no guarantees or promises as to the lawfulness of the approved activity under State or federal law, and the Business Owner, Operator and all Responsible Parties are obligated to comply with all applicable laws and regulations. To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to the adoption of this Ordinance or the operation of any Commercial Cannabis Operation approved pursuant to this Ordinance, or under State or federal law. The Business Owner, Operator and all Responsible Parties shall defend, hold harmless, release, and indemnify the City, its agents, officers, and employees, from any liability associated with the approved

use or adverse determinations made by the State or federal government. An adverse determination could include cessation of operations.

The Business Owner agrees to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to Commercial Cannabis Operations operating under the authority of this Ordinance. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the permittee of its obligation hereunder.

If requested by the City Attorney, the Business Owner shall execute an agreement memorializing the requirements of this subsection.

25-41.13.7 - Regulations Applicable to the Consumption of Cannabis.

No person shall smoke, ingest, or otherwise consume cannabis or cannabis products, whether recreational or medical, in the City of Firebaugh, unless such smoking, ingesting or consumption occurs entirely within a private residence. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings, unless those buildings are at all times fully enclosed during the consumption.

Medicinal cannabis may also be consumed within a clinic, healthcare facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code.

All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

25-41.13.8 - Penalties and Enforcement.

The following remedies shall apply for violations of this Chapter:

a. Violations for conduct that is not otherwise considered lawful under State law, shall be considered misdemeanors and are punishable in accordance with Chapter 1-5.1 of the Municipal Code. Each and every day, or portion thereof, that a violation exists is a separate offense. Persons found in violation of the six-plant limit set forth in Section 25-41.13.3(a) will be subject to prosecution for a misdemeanor violation, punishable by a one-thousand dollar (\$1000) per plant for each plant over the limit and forfeiture of all plants in excess of the six-plant limit.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this Chapter unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue non-criminal remedies for violations of this Chapter.

b. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations.

1. Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Firebaugh Municipal Code.
2. The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

c. Any person who violates the provisions of this Chapter may be subject to an administrative fine of up to one thousand dollars (\$1000.00) for each violation and for each day the violation continues to persist.

d. All remedies set forth in this section are not exclusive and the exercise of any remedy does not preclude the exercise of any other remedy that may now or subsequently exist in law or in equity or by statute or otherwise.

25-41.13.9 - Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter, or of the Regulatory Permit issued pursuant to this Chapter, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter or of any Regulatory Permit issued pursuant hereto.

25-41.13.10 - Judicial Review.

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final, as provided in California Code of Civil Procedure Section 1994.6, which shall apply for such actions.

Section 3. Section 26-67.3 of the Firebaugh Municipal Code is hereby amended to delete the following definitions:

25-67.3 Definitions

~~"Applicant" shall mean a person who is required to file an application for a permit under this section.~~

~~"Commercial Marijuana Cannabis Operation" or "Marijuana Operation" shall mean any commercial marijuana activity allowed under the "Adult Use of Marijuana Act" (AUMA) and the implementing regulations, as AUMA and the implementing regulations may be amended from time to time, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.~~

~~"Commercial Marijuana Permit" shall mean the blanket permit to operate deemed to have been granted upon completion of Registration.~~

~~"Employee Permit" shall mean the permit required under this section for every employee or independent contractor working at a Commercial Marijuana Operation or involved in transportation/Delivery related services for a Commercial Marijuana Operation.~~

~~"Non-Commercial and Recreational Marijuana Activity" shall mean all uses not included within the definitions of Commercial Marijuana Operation, including the personal use, cultivation, or consumption of marijuana, whether medical or recreational.~~

~~"Marijuana Business Operator" shall mean the Commercial Marijuana Operation Business Owner and any other person designated by the Marijuana Operation Business Owner as responsible for the day-to-day Marijuana Operations.~~

~~"Marijuana Operation Business Owner" shall mean the owner(s) of the Marijuana Operation. For corporations and limited liability companies, Business Owner means the President, Vice President, and any shareholder owning a ten percent (10%) or greater share of the corporation or company. For partnerships, Marijuana Operation Business Owner means all general partners and managing partners.~~

~~"Marijuana Ordinance" shall mean the ordinance adopting this section, and including the terms of this section, which may be commonly referred to as the City's "Commercial Marijuana Ordinance".~~

~~"Marijuana Premises" or "Site" shall mean the actual building(s), and/or designated units/suites, as well as any accessory structures, parking areas, or other immediate surroundings, and includes the entire parcel of property.~~

~~"Marijuana Premises Owner" shall mean all owners of the Premises where Marijuana Operations are occurring.~~

~~"Police Chief" shall mean the Police Chief of the City of Firebaugh or his or her designee.~~

~~"Registration" shall mean completion of the requirements of this section to open a Commercial Marijuana Operation in the City.~~

~~"Responsible Party" shall mean the Marijuana Operation Business Owner, Operator, manager(s), and any employee having significant control over the Marijuana Operations.~~

Section 4: This ordinance shall take effect thirty (30) days after its adoption.

Section 5: The City Clerk is authorized and directed to cause this ordinance to be codified after its adoption.

Section 6: The City Clerk is further authorized and directed to cause this ordinance, or a summary of this ordinance, to be published once in a newspaper of general circulation published and circulated in the City of Firebaugh within fifteen (15) days after its adoption. If a summary of this ordinance is published, then the City Clerk also shall cause a summary of the proposed ordinance to be published and a certified copy of the full text of the proposed ordinance to be posted in the Office of the City Clerk at least five (5) days prior to the Council's meeting at which the ordinance is to be adopted and again after the meeting at which the ordinance is adopted. The City Attorney shall approve the summary.

The foregoing Ordinance No. 18-02 was introduced at a regular meeting of the City Council of the City of Firebaugh on the 21st day of May, 2018, and was passed and adopted at a regular meeting of the City Council on the 4th day of June, 2018, by the following vote:

AYES: Valdez, Jenkins, Lopez, Perez

NOES:

ABSTAIN:

ABSENT: Sablan

APPROVED:

ATTEST:

Felipe Perez, Mayor
City of Firebaugh

Rita Lozano, Deputy City Clerk
City of Firebaugh