City Council Agenda

DECEMBER 9, 2014
6:00 p.m.
City of Turlock Yosemite Room
156 S. Broadway, Turlock, California

Mayor
John S. Lazar

Council Members
Amy Bublak **Steven Nascimento**
William DeHart, Jr. **Forrest White**
Vice Mayor

City Manager
Roy W. Wasden
City Clerk
Kellie E. Weaver
City Attorney
Phaedra A. Norton

SPEAKER CARDS: To accommodate those wishing to address the Council and allow for staff follow-up, speaker cards are available for any agendized topic or any other topic delivered under Public Comment. Please fill out and provide the Comment Card to the City Clerk or Police Officer.

NOTICE REGARDING NON-ENGLISH SPEAKERS: The Turlock City Council meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request.

NOTICE: Pursuant to California Government Code Section 54954.3, any member of the public may directly address the City Council on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the City Council's consideration of the item.

AGENDA PACKETS: Prior to the City Council meeting, a complete Agenda Packet is available for review on the City's website at www.cityofturlock.org and in the City Clerk's Office at 156 S. Broadway, Suite 230, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Council after distribution of the Agenda Packet are also available for public inspection in the City Clerk's Office. Such documents may be available on the City's website subject to staff's ability to post the documents before the meeting.

5:00 – 6:00 p.m. – ***Reception honoring incoming and outgoing Councilmembers***

1. A. CALL TO ORDER

B. SALUTE TO THE FLAG

C. RECOGNITION OF OUTGOING MAYOR AND COUNCILMEMBER

2. ELECTION RESULTS

A. *Resolution*: Reciting the facts of the General Municipal Election held in said City of Turlock on the 4th day of November, 2014, declaring the results thereof and such other matters as are provided by law
B. Oath of Office for Mayor
C. Oath of Office for Councilmembers
D. New Council Seated

3. A. PROCLAMATIONS, RECOGNITIONS, APPOINTMENTS, ANNOUNCEMENTS & PRESENTATIONS:

1. *Appointment:* City/County Liaison Committee (*Council Representatives*)

B. SPECIAL BRIEFINGS: None

C. STAFF UPDATES

1. Capital Projects and Building Activity *(Pitcock)*

D. PUBLIC PARTICIPATION

This is the time set aside for members of the public to directly address the City Council on any item of interest to the public, before or during the City Council's consideration of the item, that is within the subject matter jurisdiction of the City Council. You will be allowed three (3) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Council addresses the matter.

No action or discussion may be undertaken on any item not appearing on the posted agenda, except that Council may refer the matter to staff or request it be placed on a future agenda.

4. A. MOTION WAIVING READING OF ALL ORDINANCES ON THE AGENDA, EXCEPT BY TITLE

B. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS

5. CONSENT CALENDAR

Information concerning the consent items listed hereinbelow has been forwarded to each Councilmember prior to this meeting for study. Unless the Mayor, a Councilmember or member of the audience has questions concerning the Consent Calendar, the items are approved at one time by the Council. The action taken by the Council in approving the consent items is set forth in the explanation of the individual items.

A. *Resolution*: Accepting Demands of 10/23/14 in the amount of $484,846.55; Demands of 10/30/14 in the amount of $389,930.36; Demands of 11/6/14 in the amount of $481,160.51

B. *Motion*: Accepting Minutes of Regular Meeting of November 18, 2014

C. 1. *Motion*: Making the determination that City Project No. 13-62, "Hawkeye Avenue Rehabilitation," is exempt from the provisions of CEQA in accordance with Section 15301

2. *Motion*: Awarding bid and approving an agreement in the amount of $1,260,034.50 with Teichert Construction, Inc. of Stockton, California, for City Project No. 13-62, "Hawkeye Avenue Rehabilitation"

3. *Resolution*: Appropriating $520,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 13-62, "Hawkeye Avenue Rehabilitation," to complete the necessary funding required for the project

D. 1. *Motion*: Making the determination that City Project No. 13-63, "Geer Road Rehabilitation" is exempt from the provisions of CEQA in accordance with Section 15301

2. *Motion*: Awarding bid and approving an agreement in the amount of $1,036,478 with Teichert Construction, Inc. of Stockton, California, for City Project No. 13-63, "Geer Road Rehabilitation"

3. *Resolution*: Appropriating $205,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 13-63, "Geer Road Rehabilitation," to complete the necessary funding required for the project

E. *Motion*: Approving the final map and agreement conditioned upon construction of improvements of Traditions No. 6, Subdivision Project No. 14-32, developed by Fitzpatrick Homes-Traditions, LLC

F. *Resolution*: Considering Intention to Levy and Collect Assessments for the Parcel Map 14-02 (Doo) Landscaping, Lighting, and Street Maintenance Benefit Assessment District, Subdivision Project No. 14-47

G. *Motion*: Accepting improvements for City Project No. 14-51, "901 Hedstrom Road Curb Return Repair," and authorizing the City Engineer to file a Notice of Completion

H. *Motion*: Approving a Professional Services Agreement between the City of Turlock and Larry Walker and Associates for National Pollutant Discharge Elimination System Permit Renewal and Compliance Support Services for the Turlock Regional Water Quality Control Facility, in an amount not to exceed $50,000, from Fund 410-51-530.43316 "NPDES Permit Studies"

I. *Motion*: Approving a Professional Services Agreement between the City of Turlock and WGR Southwest, Inc., for Support Services with Phase II Small MS4 NPDES Permit Compliance for Year 2 as required by the State Water Resources Control Board, in an amount not to exceed $20,000 from Fund 410-51-532.47500 "NPDES Phase II MS4 Storm Compliance"

J. *Resolution*: Authorizing the City Manager to enter into standard Non-Disclosure Agreements with potential new industry representative(s)

K. *Motion*: Approving an agreement between the City of Turlock and the Turlock Downtown Property Owners Association (TDPOA) for the implementation of a Management District Plan and authorizing the City Manager to execute the agreement for a term of ten (10) years, expiring on December 31, 2023

L. *Resolution*: Accepting donations received from July through October Fiscal Year 2014/15 to be deposited for a variety of Parks, Recreation & Public Facilities Department programs, scholarships, and activities

M. *Motion*: Approving the renewal of a Memorandum of Understanding between the City of Turlock and the Turlock Unified School District to offer youth basketball programs within the community

N. *Resolution*: Approving a Memorandum of Understanding between the Turlock Police Department and the Sacramento Internet Crimes Against Children Task Force and authorizing the City Manager to sign the agreement

O. *Motion*: Approving a sole source agreement with IBM Credit LLC, for the lease/purchase of an IBM Power S814, associated equipment, and installation to be paid on a sixty (60) month payment schedule of $999.10 per month, in an amount not to exceed $59,946

P. *Motion*: Authorizing the approval and execution of an agreement between the City of Turlock and Utility Telephone Company for internet service for the police department, in an amount not to exceed $772.40 per month, and authorizing the City Manager or his designee to execute renewal agreements as necessary

Q. 1. *Motion*: Approving the purchase of new firearms and related equipment, including the trade-in of existing firearms and awarding the bid to LC Action Police Supply of San Jose, California, in an amount not to exceed $36,254

2. *Resolution*: Appropriating an additional $6,254 to account number 240-00-000-213.51153 "Police Services – Weapons" from Fund 240 "Small Equipment Replacement-Police Services" reserve balance for the purchase of new firearms and related equipment

R. *Resolution*: Accepting monetary donations of $3,125 and various property donations valued at $3,455, received July through September of Fiscal Year 2014/15 from various donors, to be utilized in support of the City's Crime Prevention Unit, Volunteers in Police Services (VIPS), and Public Safety Open House

S. 1. *Resolution*: Authorizing the sole source procurement of Holmatro tools and equipment from Fire Service Specifications & Supply (FS3) of Santa Ana, California, in an amount not to exceed $57,000, without compliance to the formal bid procedure in accordance with Section 2-7-08(b)(2) of the Turlock Municipal Code, and appropriating $6,300 to account number 240-00-000-306.44030_000 "Minor Equipment Maintenance" from Fund 240 "Small Equipment Replacement-Fire Equipment Replacement" reserve balance for the purchase of two (2) rescue tool systems

2. *Resolution*: Approving the sole source procurement of Holmatro rescue tools and equipment for future purchases from Fire Service Specifications & Supply (FS3) of Santa Ana, California, for the Turlock Fire Department, without compliance to the formal bid procedure in accordance with Section 2-7-08(b)(2) of the Turlock Municipal Code

T. *Resolution*: Authorizing the City Manager to enter into an agreement with US Bank and to sign State of California Participating Addendum No. 7-14-99-22 for continued use of the Cal Card program

U. *Resolution*: Conducting a Citywide Total Compensation Study that will be completed on or about January 2017 and will include all unrepresented employees and all bargaining groups wishing to participate

V. *Resolution*: Designating Council Member Matthew Jacob as the Council representative for District 1 and Council Member Bill DeHart, Jr. as the Council representative for District 3 pursuant to City of Turlock Ordinance 1197-CS [Turlock Municipal Code §2-1-06(c)]

W. *Motion*: Rejecting Claim for Damages filed by Albert Souza

6. FINAL READINGS

A. ***Recommended Action*:**

Ordinance: Amending the Zoning Map of the City of Turlock, California, attached to Title 9 of the Turlock Municipal Code [Rezone 2014-01 (East Tuolumne Master Plan Amendment)] as introduced at the November 18, 2014 meeting

Resolution: Establishing Conditions of Approval for Rezone 2014-01 (East Tuolumne Master Plan Amendment)

7. PUBLIC HEARINGS: None

Challenges in court to any of the items listed below, may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Turlock City Council at, or prior to, the public hearing.

8. SCHEDULED MATTERS: None

9. COUNCIL ITEMS FOR FUTURE CONSIDERATION

10. COUNCIL COMMENTS

Councilmembers may provide a brief report on notable topics of interest. The Brown Act does not allow discussion or action by the legislative body.

11. CLOSED SESSION

12. ADJOURNMENT

2A

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD IN SAID CITY OF TURLOCK ON THE 4th DAY OF NOVEMBER, 2014, DECLARING THE RESULTS THEREOF AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW	RESOLUTION NO. 2014-

WHEREAS, a regular General Municipal Election was held and conducted in the City of Turlock, County of Stanislaus, State of California, on Tuesday, the 4th day of November, 2014, as required by law; and

WHEREAS, notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities.

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

SECTION 1. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing: (1) the whole number of votes cast in the City; (2) The names of the persons voted for; (3) The measure(s) voted upon; (4) For what office each person was voted for; (5) The number of votes given at each precinct to each person, and for and against each measure(s); (6) The total number of votes given to each person, and for and against each measure as set forth on "Exhibit A," attached hereto and made a part of this resolution.

SECTION 2. The City Council does declare and determine that:

1. Gary Soiseth was elected Mayor of the City Council of said City for the full term of four years.

2. Matthew Jacob was elected Member of the City Council of said City for the full term of four years.

3. Bill DeHart, Jr. was elected Member of the City Council of said City for the full term of four years.

4. Members of the legislative body of the City of Turlock shall be elected by districts described in Ordinance No. 1197-CS and the Mayor of the City of Turlock shall be elected on a citywide basis by the voters of the entire city.

5. An ordinance establishing a one-half of one percent local road transactions and use (sales) tax in Turlock, for 7 years, to be used exclusively for construction, reconstruction, replacement, repair and maintenance of existing City streets, sidewalks, and pedestrian/ bicycle improvements, including ADA improvements, with an independent citizens' oversight committee and financial audit ensuring all funds are spent appropriately in Turlock, shall not be adopted.

SECTION 3. The City Clerk shall immediately make and, upon compliance by the persons elected with the provision of Section 10265 of the Elections Code of the State of California, shall deliver to each of such persons so elected a certificate of election signed by him/her and duly authenticated; that he/she shall also administer to each person elected, the oath of office prescribed in the State Constitution of the State of California and shall have them subscribe thereto and file the same in his/her office. Whereupon, each and all of said persons so elected shall be inducted into the respective office to which they have been elected.

SECTION 4. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk
City of Turlock, County of Stanislaus,
State of California

**CERTIFICATE OF CANVASS
AND STATEMENT OF RESULTS
FOR VOTES CAST
FOR A
GENERAL MUNICIPAL ELECTION
HELD IN THE
CITY OF TURLOCK
ON
NOVEMBER 4, 2014**

I, Kellie E. Weaver, City Clerk of the City of Turlock, State of California, do hereby certify that I did cause a public canvass on the returns of the votes cast in the General Municipal election held in November 4, 2014, within the interior boundaries of the City of Turlock, and do hereby declare the results thereof as follows:

The total number of votes given in the City to each Candidate is as follows:

Mayor: One (1) to be elected

Gary Soiseth 8,374
Mike Brem 5,317

Member, City Council: Two (2) to be elected

Matthew Jacob 7,066
Donald Babadalir 2,386
Sergio A. Alvarado 2,405
Bill DeHart, Jr. 6,351
Forrest J. White 5,810

Measure A: Shall members of the legislative body of the City of Turlock be elected by districts described in Ordinance No. 1197-CS and the Mayor of the City of Turlock be elected on a citywide basis by the voters of the entire city?

Yes 9,685
No 3,446

Measure B: Shall the ordinance establishing a one-half of one percent local road transactions and use (sales) tax in Turlock, for 7 years, to be used exclusively for construction, reconstruction, replacement, repair and maintenance of existing City streets, sidewalks, and pedestrian/ bicycle improvements, including ADA improvements, with an independent citizens' oversight committee and financial audit ensuring all funds are spent appropriately in Turlock, be adopted?

Yes 8,425
No 5,439

The whole number of registered voters was 28,750.

The whole number of ballots cast in the City was 14,512.

The number of votes given at each precinct to each person as set forth in ***Attachment A***.

Date: December 9, 2014

ATTEST:

_____
Kellie E. Weaver, City Clerk
City of Turlock, County of Stanislaus
State of California

Attachment A

November 4, 2014 General Municipal Election
for City of Turlock

Registered Voters:	28,750
Ballots Cast:	14,512
Turnout:	50.48%

The number of votes given at each precinct to each person was as follows:

Precinct Turlock 1, 2:

Registered Voters	528
Ballots Cast	148
Turnout Percentage	28.03
Mayor	
Gary Soiseth	74
Mike Brem	62
Member, City Council	
Matthew Jacob	76
Donald Babadalir	13
Sergio A. Alvarado	35
Bill DeHart, Jr.	56
Forrest J. White	44

Precinct Turlock 3, 41,42:

Registered Voters	261
Ballots Cast	46
Turnout Percentage	17.62
Mayor	
Gary Soiseth	31
Mike Brem	11
Member, City Council	
Matthew Jacob	16
Donald Babadalir	9
Sergio A. Alvarado	18
Bill DeHart, Jr.	11
Forrest J. White	15

Precinct Turlock 4, 7B:

Registered Voters	485
Ballots Cast	138
Turnout Percentage	28.45
Mayor	
Gary Soiseth	85
Mike Brem	46
Member, City Council	
Matthew Jacob	69
Donald Babadalir	12
Sergio A. Alvarado	42
Bill DeHart, Jr.	44
Forrest J. White	60

Precinct Turlock 5, 7A, 7C, 10, 11:

Registered Voters	837
Ballots Cast	276
Turnout Percentage	32.97
Mayor	
Gary Soiseth	182
Mike Brem	81
Member, City Council	
Matthew Jacob	117
Donald Babadalir	44
Sergio A. Alvarado	45
Bill DeHart, Jr.	125
Forrest J. White	113

Precinct Turlock 6, 8:

Registered Voters 614
Ballots Cast 270
Turnout Percentage 43.97

Mayor
Gary Soiseth 171
Mike Brem 92

Member, City Council
Matthew Jacob 142
Donald Babadalir 25
Sergio A. Alvarado 37
Bill DeHart, Jr. 146
Forrest J. White 105

Precinct Turlock 9, 18, 27:

Registered Voters 712
Ballots Cast 437
Turnout Percentage 61.38

Mayor
Gary Soiseth 253
Mike Brem 169

Member, City Council
Matthew Jacob 230
Donald Babadalir 72
Sergio A. Alvarado 41
Bill DeHart, Jr. 202
Forrest J. White 190

Precinct Turlock 12, 20, 26, 52:

Registered Voters 896
Ballots Cast 378
Turnout Percentage 42.19

Mayor
Gary Soiseth 232
Mike Brem 127

Member, City Council
Matthew Jacob 214
Donald Babadalir 71
Sergio A. Alvarado 49
Bill DeHart, Jr. 155
Forrest J. White 134

Precinct Turlock 13, 47:

Registered Voters 646
Ballots Cast 244
Turnout Percentage 37.77

Mayor
Gary Soiseth 164
Mike Brem 73

Member, City Council
Matthew Jacob 139
Donald Babadalir 46
Sergio A. Alvarado 44
Bill DeHart, Jr. 98
Forrest J. White 79

Precinct Turlock 14, 15B, 19, 37:

Registered Voters 735
Ballots Cast 181
Turnout Percentage 24.63

Mayor
Gary Soiseth 113
Mike Brem 65

Member, City Council
Matthew Jacob 102
Donald Babadalir 29
Sergio A. Alvarado 34
Bill DeHart, Jr. 89
Forrest J. White 47

Precinct Turlock 15A, 15C, 16B, 17:

Registered Voters 610
Ballots Cast 222
Turnout Percentage 36.39

Mayor
Gary Soiseth 127
Mike Brem 82

Member, City Council
Matthew Jacob 117
Donald Babadalir 55
Sergio A. Alvarado 31
Bill DeHart, Jr. 90
Forrest J. White 68

Precinct Turlock 16A, 24, 39, 51:

Registered Voters 770
Ballots Cast 280
Turnout Percentage 36.36

Mayor
Gary Soiseth 173
Mike Brem 85

Member, City Council
Matthew Jacob 168
Donald Babadalir 66
Sergio A. Alvarado 54
Bill DeHart, Jr. 92
Forrest J. White 79

Precinct Turlock 22, 28A, 45, 53B:

Registered Voters 713
Ballots Cast 254
Turnout Percentage 35.62

Mayor
Gary Soiseth 147
Mike Brem 92

Member, City Council
Matthew Jacob 140
Donald Babadalir 55
Sergio A. Alvarado 46
Bill DeHart, Jr. 103
Forrest J. White 91

Precinct Turlock 23, 29, 31, 34, 46, 50:

Registered Voters 361
Ballots Cast 181
Turnout Percentage 50.14

Mayor
Gary Soiseth 123
Mike Brem 55

Member, City Council
Matthew Jacob 97
Donald Babadalir 59
Sergio A. Alvarado 12
Bill DeHart, Jr. 76
Forrest J. White 65

Precinct Turlock 25, 36:

Registered Voters 420
Ballots Cast 120
Turnout Percentage 28.57

Mayor
Gary Soiseth 70
Mike Brem 42

Member, City Council
Matthew Jacob 51
Donald Babadalir 27
Sergio A. Alvarado 26
Bill DeHart, Jr. 56
Forrest J. White 43

Precinct Turlock 28B, 43, 53A, 54:

Registered Voters 543
Ballots Cast 180
Turnout Percentage 33.15

Mayor
Gary Soiseth 107
Mike Brem 59

Member, City Council
Matthew Jacob 103
Donald Babadalir 61
Sergio A. Alvarado 31
Bill DeHart, Jr. 62
Forrest J. White 37

Precinct Turlock 30, 32, 49:

Registered Voters 598
Ballots Cast 107
Turnout Percentage 17.89

Mayor
Gary Soiseth 66
Mike Brem 36

Member, City Council
Matthew Jacob 42
Donald Babadalir 18
Sergio A. Alvarado 44
Bill DeHart, Jr. 22
Forrest J. White 34

Precinct Turlock 38, 40, 55:

Registered Voters 685
Ballots Cast 294
Turnout Percentage 42.92

Mayor
Gary Soiseth 168
Mike Brem 112

Member, City Council
Matthew Jacob 166
Donald Babadalir 42
Sergio A. Alvarado 46
Bill DeHart, Jr. 109
Forrest J. White 102

Precinct Turlock 44, 48, 57:

Registered Voters 592
Ballots Cast 123
Turnout Percentage 20.78

Mayor
Gary Soiseth 70
Mike Brem 46

Member, City Council
Matthew Jacob 62
Donald Babadalir 14
Sergio A. Alvarado 25
Bill DeHart, Jr. 43
Forrest J. White 45

Precinct Turlock 21, 33:

Registered Voters 80
Ballots Cast 43
Turnout Percentage 53.75

Mayor
Gary Soiseth 21
Mike Brem 21

Member, City Council
Matthew Jacob 18
Donald Babadalir 4
Sergio A. Alvarado 4
Bill DeHart, Jr. 17
Forrest J. White 22

Absentee Group Precinct Turlock 1, 2:

Registered Voters 683
Ballots Cast 336
Turnout Percentage 49.19

Mayor
Gary Soiseth 187
Mike Brem 126

Member, City Council
Matthew Jacob 143
Donald Babadalir 49
Sergio A. Alvarado 99
Bill DeHart, Jr. 139
Forrest J. White 143

Absentee Group Precinct Turlock 3, 41,42:

Registered Voters 389
Ballots Cast 163
Turnout Percentage 41.90

Mayor
Gary Soiseth 89
Mike Brem 59

Member, City Council
Matthew Jacob 63
Donald Babadalir 5
Sergio A. Alvarado 65
Bill DeHart, Jr. 58
Forrest J. White 59

Absentee Group Precinct Turlock 4, 7B:

Registered Voters 704
Ballots Cast 307
Turnout Percentage 43.61

Mayor
Gary Soiseth 169
Mike Brem 115

Member, City Council
Matthew Jacob 122
Donald Babadalir 38
Sergio A. Alvarado 88
Bill DeHart, Jr. 117
Forrest J. White 142

Absentee Group Precinct Turlock 5, 7A, 7C, 10, 11:

Registered Voters 1,023
Ballots Cast 596
Turnout Percentage 58.26

Mayor
Gary Soiseth 355
Mike Brem 208

Member, City Council
Matthew Jacob 272
Donald Babadalir 85
Sergio A. Alvarado 105
Bill DeHart, Jr. 264
Forrest J. White 260

Absentee Group Precinct Turlock 6, 8:

Registered Voters 1,153
Ballots Cast 776
Turnout Percentage 67.30

Mayor
Gary Soiseth 468
Mike Brem 286

Member, City Council
Matthew Jacob 390
Donald Babadalir 63
Sergio A. Alvarado 113
Bill DeHart, Jr. 371
Forrest J. White 391

Absentee Group Precinct Turlock 9, 18, 27:

Registered Voters 1,433
Ballots Cast 1,101
Turnout Percentage 76.83

Mayor
Gary Soiseth 578
Mike Brem 486

Member, City Council
Matthew Jacob 497
Donald Babadalir 96
Sergio A. Alvarado 103
Bill DeHart, Jr. 594
Forrest J. White 583

Absentee Group Precinct Turlock 12, 20, 26, 52:

Registered Voters 1,818
Ballots Cast 1,198
Turnout Percentage 65.90

Mayor
Gary Soiseth 683
Mike Brem 460

Member, City Council
Matthew Jacob 571
Donald Babadalir 178
Sergio A. Alvarado 145
Bill DeHart, Jr. 623
Forrest J. White 502

Absentee Group Precinct Turlock 13, 47:

Registered Voters 990
Ballots Cast 542
Turnout Percentage 54.75

Mayor
Gary Soiseth 311
Mike Brem 190

Member, City Council
Matthew Jacob 233
Donald Babadalir 113
Sergio A. Alvarado 110
Bill DeHart, Jr. 196
Forrest J. White 215

Absentee Group Precinct Turlock 14, 15B, 19, 37:

Registered Voters 1,132
Ballots Cast 600
Turnout Percentage 53.00

Mayor
Gary Soiseth 346
Mike Brem 227

Member, City Council
Matthew Jacob 288
Donald Babadalir 78
Sergio A. Alvarado 137
Bill DeHart, Jr. 274
Forrest J. White 240

Absentee Group Precinct Turlock 15A, 15C, 16B, 17:

Registered Voters 955
Ballots Cast 581
Turnout Percentage 60.84

Mayor
Gary Soiseth 330
Mike Brem 196

Member, City Council
Matthew Jacob 286
Donald Babadalir 142
Sergio A. Alvarado 95
Bill DeHart, Jr. 234
Forrest J. White 204

Absentee Group Precinct Turlock 16A, 24, 39, 51:

Registered Voters 1,260
Ballots Cast 749
Turnout Percentage 59.44

Mayor
Gary Soiseth 439
Mike Brem 264

Member, City Council
Matthew Jacob 376
Donald Babadalir 139
Sergio A. Alvarado 115
Bill DeHart, Jr. 327
Forrest J. White 293

Absentee Group Precinct Turlock 22, 28A, 45, 53B:

Registered Voters 1,203
Ballots Cast 766
Turnout Percentage 63.67

Mayor
Gary Soiseth 401
Mike Brem 290

Member, City Council
Matthew Jacob 426
Donald Babadalir 158
Sergio A. Alvarado 102
Bill DeHart, Jr. 299
Forrest J. White 275

Absentee Group Precinct Turlock 23, 29, 31, 34, 46, 50:

Registered Voters 980
Ballots Cast 718
Turnout Percentage 73.27

Mayor
Gary Soiseth 369
Mike Brem 324

Member, City Council
Matthew Jacob 326
Donald Babadalir 113
Sergio A. Alvarado 58
Bill DeHart, Jr. 378
Forrest J. White 347

Absentee Group Precinct Turlock 25, 36:

Registered Voters 573
Ballots Cast 288
Turnout Percentage 50.26

Mayor
Gary Soiseth 165
Mike Brem 96

Member, City Council
Matthew Jacob 136
Donald Babadalir 45
Sergio A. Alvarado 75
Bill DeHart, Jr. 103
Forrest J. White 95

Absentee Group Precinct Turlock 28B, 43, 53A, 54:

Registered Voters 987
Ballots Cast 604
Turnout Percentage 61.20

Mayor
Gary Soiseth 339
Mike Brem 220

Member, City Council
Matthew Jacob 316
Donald Babadalir 138
Sergio A. Alvarado 95
Bill DeHart, Jr. 244
Forrest J. White 209

Absentee Group Precinct Turlock 30, 32, 49:

Registered Voters 675
Ballots Cast..... 280
Turnout Percentage..... 41.48

Mayor
Gary Soiseth 167
Mike Brem 90

Member, City Council
Matthew Jacob..... 97
Donald Babadalir 35
Sergio A. Alvarado..... 92
Bill DeHart, Jr..... 116
Forrest J. White 113

Absentee Group Precinct Turlock 38, 40, 55:

Registered Voters 922
Ballots Cast..... 611
Turnout Percentage..... 66.27

Mayor
Gary Soiseth 374
Mike Brem 203

Member, City Council
Matthew Jacob..... 254
Donald Babadalir 111
Sergio A. Alvarado..... 90
Bill DeHart, Jr..... 267
Forrest J. White 257

Absentee Group Precinct Turlock 44, 48, 57:

Registered Voters 784
Ballots Cast..... 374
Turnout Percentage..... 47.70

Mayor
Gary Soiseth 227
Mike Brem 121

Member, City Council
Matthew Jacob..... 201
Donald Babadalir 78
Sergio A. Alvarado..... 54
Bill DeHart, Jr..... 151
Forrest J. White 109

5A

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF ACCEPTING DEMANDS OF 10/23/14 IN THE AMOUNT OF $484,846.55; DEMANDS OF 10/30/14 IN THE AMOUNT OF $389,930.36; DEMANDS OF 11/6/14 IN THE AMOUNT OF $481,160.51	**RESOLUTION NO. 2014-**

WHEREAS, the City has received demands for ratification and approval.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby accept Demands as follows:

Demands of:	In the Amount of:
10/23/14	$484,846.55
10/30/14	$389,930.36
11/6/14	$481,160.51

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk
City of Turlock, County of Stanislaus, State of California

City of Turlock

Payment Register

From Payment Date: 10/17/2014 - To Payment Date: 10/23/2014

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
AP - Accounts Payable									
Check									
99748	10/20/2014	Open			Accounts Payable	AFLAC	$5,604.19		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$5,604.19			
99749	10/20/2014	Open			Accounts Payable	AFLAC GROUP INSURANCE	$2,941.84		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$2,941.84			
99750	10/20/2014	Open			Accounts Payable	FARIA, JAMIE	$242.00		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$242.00			
99751	10/20/2014	Open			Accounts Payable	STANISLAUS CTY SHERIFF	$437.55		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$437.55			
99752	10/20/2014	Open			Accounts Payable	SUPPORT PAYMENT CLEARING	$439.13		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$439.13			
99753	10/23/2014	Open			Accounts Payable	A & A PORTABLES INC	$596.63		
	Paying Fund			Cash Account		Amount			
	246 - Landscape Assessment			246.11000 (Cash)		$79.76			
	301 - Capital Improvements			301.11000 (Cash)		$516.87			
99754	10/23/2014	Open			Accounts Payable	AIRGAS NCN	$718.65		
	Paying Fund			Cash Account		Amount			
	410 - WATER QUALITY CONTROL (WQC)			410.11000 (Cash)		$718.65			
99755	10/23/2014	Open			Accounts Payable	ALL VALLEY SMOG INC	$24.75		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$24.75			
99756	10/23/2014	Open			Accounts Payable	ALTA PLANNING + DESIGN, INC.	$2,214.25		
	Paying Fund			Cash Account		Amount			
	216 - Streets - Local Transportation			216.11000 (Cash)		$2,214.25			
99757	10/23/2014	Open			Accounts Payable	APPLIED PEST MANAGEMENT INC	$220.00		
	Paying Fund			Cash Account		Amount			
	410 - WATER QUALITY CONTROL (WQC)			410.11000 (Cash)		$220.00			
99758	10/23/2014	Open			Accounts Payable	AT&T MOBILITY	$846.54		
	Paying Fund			Cash Account		Amount			

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	110 - General Fund	110.11000 (Cash)			$846.54	
99759	10/23/2014	Open	Accounts Payable	AT&T/SBC		$31.76
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$31.76	
99760	10/23/2014	Open	Accounts Payable	AVAYA INC		$12.07
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$12.07	
99761	10/23/2014	Open	Accounts Payable	BADGER METER INC		$6,712.36
	Paying Fund	Cash Account			Amount	
	420 - WATER	420.11000 (Cash)			$6,712.36	
99762	10/23/2014	Open	Accounts Payable	BENDER ROSENTHAL, INC.		$3,500.00
	Paying Fund	Cash Account			Amount	
	305 - Capital Facility Fees	305.11000 (Cash)			$3,500.00	
99763	10/23/2014	Open	Accounts Payable	BLX GROUP LLC		$5,000.00
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$2,750.00	
	621 - Successor Agency - Non LMI	621.11000 (Cash)			$2,250.00	
99764	10/23/2014	Open	Accounts Payable	BONANDER TRUCKS		$1,812.41
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$1,812.41	
99765	10/23/2014	Open	Accounts Payable	BORGES & MAHONEY CO		$3,613.42
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$3,613.42	
99766	10/23/2014	Open	Accounts Payable	CALIF DEPT OF TRANS		$193.15
	Paying Fund	Cash Account			Amount	
	216 - Streets - Local Transportation	216.11000 (Cash)			$193.15	
99767	10/23/2014	Open	Accounts Payable	CALIFORNIA SOCIETY OF MUNICIPAL FINANCE OFFICERS		$25.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$25.00	
99768	10/23/2014	Open	Accounts Payable	CAROLLO ENGINEERS		$20,817.34
	Paying Fund	Cash Account			Amount	
	415 - Sewer Bond Projects	415.11000 (Cash)			$20,817.34	
99769	10/23/2014	Open	Accounts Payable	CENTRAL VALLEY CONCRETE		$1,163.71
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$877.16	
	246 - Landscape Assessment	246.11000 (Cash)			$286.55	

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99770	10/23/2014	Open	Accounts Payable	CHAMPION INDUSTRIAL	$708.68
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$708.68	
99771	10/23/2014	Open	Accounts Payable	CHARTER COMMUNICATIONS	$698.98
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$49.99	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$152.49	
	420 - WATER		420.11000 (Cash)	$42.50	
	501 - Information Technology		501.11000 (Cash)	$454.00	
99772	10/23/2014	Open	Accounts Payable	CLARK PEST CONTROL INC	$3,846.00
	Paying Fund		Cash Account	Amount	
	217 - Streets - Gas Tax		217.11000 (Cash)	$469.00	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$3,102.00	
	420 - WATER		420.11000 (Cash)	$275.00	
99773	10/23/2014	Open	Accounts Payable	CUMMINS PACIFIC LLC	$2,868.92
	Paying Fund		Cash Account	Amount	
	426 - Transit - Fixed Route		426.11000 (Cash)	$2,868.92	
99774	10/23/2014	Open	Accounts Payable	CVCWA	$16,000.00
	Paying Fund		Cash Account	Amount	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$16,000.00	
99775	10/23/2014	Open	Accounts Payable	DENAIR FENCING INC	$439.76
	Paying Fund		Cash Account	Amount	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$439.76	
99776	10/23/2014	Open	Accounts Payable	DOWNEY BRAND ATTORNEYS	$15,980.30
	Paying Fund		Cash Account	Amount	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$15,980.30	
99777	10/23/2014	Open	Accounts Payable	ECONOMIC & PLANNING INC	$10,855.00
	Paying Fund		Cash Account	Amount	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$5,325.00	
	411 - Storm Drainage Construction		411.11000 (Cash)	$5,530.00	
99778	10/23/2014	Open	Accounts Payable	F LODUCA CO	$90,209.19
	Paying Fund		Cash Account	Amount	
	215 - Streets - Grant Funded Projects		215.11000 (Cash)	$90,209.19	
99779	10/23/2014	Open	Accounts Payable	FASTENAL COMPANY INC	$396.43
	Paying Fund		Cash Account	Amount	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$396.43	
99780	10/23/2014	Open	Accounts Payable	FEDERAL EXPRESS	$353.68

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	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$200.22	
	215 - Streets - Grant Funded Projects	215.11000 (Cash)			$20.71	
	255 - CDBG	255.11000 (Cash)			$22.32	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$17.50	
	420 - WATER	420.11000 (Cash)			$84.26	
	501 - Information Technology	501.11000 (Cash)			$8.67	
99781	10/23/2014 Open		Accounts Payable	FINANCIAL CREDIT NETWORK		$648.97
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$285.70	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$102.40	
	420 - WATER	420.11000 (Cash)			$260.87	
99782	10/23/2014 Open		Accounts Payable	GEOANALYTICAL LAB INC		$5,294.19
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$4,230.14	
	420 - WATER	420.11000 (Cash)			$1,064.05	
99783	10/23/2014 Open		Accounts Payable	GOMES PROPANE		$119.13
	Paying Fund	Cash Account			Amount	
	217 - Streets - Gas Tax	217.11000 (Cash)			$119.13	
99784	10/23/2014 Open		Accounts Payable	GOV'T FIN OFFICERS ASSOC		$225.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$225.00	
99785	10/23/2014 Open		Accounts Payable	GRAINGER INC, W W		$852.17
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$15.11	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$837.06	
99786	10/23/2014 Open		Accounts Payable	GROENIGER & COMPANY		$1,222.08
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$897.59	
	420 - WATER	420.11000 (Cash)			$324.49	
99787	10/23/2014 Open		Accounts Payable	HD SUPPLY WATERWORKS LTD		$247.14
	Paying Fund	Cash Account			Amount	
	420 - WATER	420.11000 (Cash)			$247.14	
99788	10/23/2014 Open		Accounts Payable	HILMAR READY MIX		$258.30
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$166.82	
	420 - WATER	420.11000 (Cash)			$91.48	

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99789	10/23/2014	Open	Accounts Payable	HSQ INC	$16,992.00
	Paying Fund		Cash Account		Amount
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$8,496.00
	420 - WATER		420.11000 (Cash)		$8,496.00
99790	10/23/2014	Open	Accounts Payable	JUSTUS LAWNMOWER SHOP INC	$1,091.03
	Paying Fund		Cash Account		Amount
	110 - General Fund		110.11000 (Cash)		$185.75
	217 - Streets - Gas Tax		217.11000 (Cash)		$456.60
	246 - Landscape Assessment		246.11000 (Cash)		$428.68
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$20.00
99791	10/23/2014	Open	Accounts Payable	LANGUAGE LINE SERVICES	$10.75
	Paying Fund		Cash Account		Amount
	110 - General Fund		110.11000 (Cash)		$10.75
99792	10/23/2014	Open	Accounts Payable	LEHIGH HANSON INC	$580.83
	Paying Fund		Cash Account		Amount
	217 - Streets - Gas Tax		217.11000 (Cash)		$562.68
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$18.15
99793	10/23/2014	Open	Accounts Payable	MISSION LINEN SUPPLY INC	$3,209.96
	Paying Fund		Cash Account		Amount
	110 - General Fund		110.11000 (Cash)		$679.32
	205 - Sports Facilities		205.11000 (Cash)		$81.88
	217 - Streets - Gas Tax		217.11000 (Cash)		$314.76
	246 - Landscape Assessment		246.11000 (Cash)		$185.76
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$1,283.20
	420 - WATER		420.11000 (Cash)		$249.79
	505 - Fleet		505.11000 (Cash)		$415.25
99794	10/23/2014	Open	Accounts Payable	MO-CAL OFFICE SOLUTIONS INC	$2,054.62
	Paying Fund		Cash Account		Amount
	110 - General Fund		110.11000 (Cash)		$884.67
	204 - AB 939 Integrated Waste Mgmt		204.11000 (Cash)		$36.00
	255 - CDBG		255.11000 (Cash)		$267.28
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$722.35
	420 - WATER		420.11000 (Cash)		$21.77
	502 - Engineering		502.11000 (Cash)		$122.55
99795	10/23/2014	Open	Accounts Payable	NAPA AUTO PARTS	$317.53
	Paying Fund		Cash Account		Amount
	110 - General Fund		110.11000 (Cash)		$33.29

	205 - Sports Facilities	205.11000 (Cash)		$55.02	
	246 - Landscape Assessment	246.11000 (Cash)		$6.44	
	420 - WATER	420.11000 (Cash)		$141.26	
	425 - Transit - Dial-A-Ride	425.11000 (Cash)		$81.52	
99796	10/23/2014 Open	Accounts Payable	NESTLE WATERS NORTH AMERICA		$306.91
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$28.36	
	246 - Landscape Assessment	246.11000 (Cash)		$28.36	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$250.19	
99797	10/23/2014 Open	Accounts Payable	NEW WORLD SYSTEM CORP		$1,337.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,069.00	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$134.00	
	420 - WATER	420.11000 (Cash)		$134.00	
99798	10/23/2014 Open	Accounts Payable	NEXT LEVEL PARTS INC		$491.31
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$171.31	
	420 - WATER	420.11000 (Cash)		$320.00	
99799	10/23/2014 Open	Accounts Payable	OUTDOOR CREATIONS INC		$3,540.19
	Paying Fund	Cash Account		Amount	
	269 - Parks & Public Facilities Grants	269.11000 (Cash)		$3,540.19	
99800	10/23/2014 Open	Accounts Payable	P G & E		$11,214.34
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$4,339.36	
	505 - Fleet	505.11000 (Cash)		$6,874.98	
99801	10/23/2014 Open	Accounts Payable	PROTECH SECURITY/ELEC INC		$820.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$820.00	
99802	10/23/2014 Open	Accounts Payable	RANDIK PAPER CO		$1,120.22
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$1,120.22	
99803	10/23/2014 Open	Accounts Payable	RAY MORGAN COMPANY		$2,797.97
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,801.99	
	205 - Sports Facilities	205.11000 (Cash)		$27.09	
	217 - Streets - Gas Tax	217.11000 (Cash)		$3.11	
	246 - Landscape Assessment	246.11000 (Cash)		$3.11	

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	405 - Building	405.11000 (Cash)			$66.82	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$526.61	
	420 - WATER	420.11000 (Cash)			$66.39	
	502 - Engineering	502.11000 (Cash)			$302.85	
99804	10/23/2014 Open		Accounts Payable	REED INC, GEORGE		$20,009.33
	Paying Fund	Cash Account			Amount	
	215 - Streets - Grant Funded Projects	215.11000 (Cash)			$20,009.33	
99805	10/23/2014 Open		Accounts Payable	RMC WATER AND ENVIRONMENT		$6,192.41
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$6,192.41	
99806	10/23/2014 Open		Accounts Payable	SAFETY-KLEEN CORPORATION		$141.04
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$141.04	
99807	10/23/2014 Open		Accounts Payable	SECOND HARVEST FOOD BANK		$2,281.95
	Paying Fund	Cash Account			Amount	
	255 - CDBG	255.11000 (Cash)			$2,281.95	
99808	10/23/2014 Open		Accounts Payable	SECURE DELIVERY		$122.00
	Paying Fund	Cash Account			Amount	
	420 - WATER	420.11000 (Cash)			$122.00	
99809	10/23/2014 Open		Accounts Payable	SEEGER'S PRINTING INC		$742.61
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$742.61	
99810	10/23/2014 Open		Accounts Payable	SIERRA CHEMICAL CO		$33,472.68
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$33,472.68	
99811	10/23/2014 Open		Accounts Payable	SPRINT		$859.85
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$306.74	
	205 - Sports Facilities	205.11000 (Cash)			$70.91	
	217 - Streets - Gas Tax	217.11000 (Cash)			$103.98	
	246 - Landscape Assessment	246.11000 (Cash)			$33.45	
	270 - Recreation Grants	270.11000 (Cash)			$17.58	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$168.68	
	420 - WATER	420.11000 (Cash)			$113.88	
	505 - Fleet	505.11000 (Cash)			$44.63	
99812	10/23/2014 Open		Accounts Payable	STANISLAUS COUNTY - TAX		$14,923.34
	Paying Fund	Cash Account			Amount	

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	110 - General Fund	110.11000 (Cash)			$9,563.92	
	120 - Tourism	120.11000 (Cash)			$839.14	
	258 - Housing Stimulus Funds	258.11000 (Cash)			$4,116.84	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$403.44	
99813	10/23/2014 Open		Accounts Payable	T I D		$64,319.57
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$7,113.70	
	216 - Streets - Local Transportation	216.11000 (Cash)			$35,473.09	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$14,400.85	
	420 - WATER	420.11000 (Cash)			$7,331.93	
99814	10/23/2014 Open		Accounts Payable	TOWNSEND PUBLIC AFFAIRS INC		$5,000.00
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$2,500.00	
	420 - WATER	420.11000 (Cash)			$2,500.00	
99815	10/23/2014 Open		Accounts Payable	US BANK-VISA		$63,118.82
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$24,553.78	
	112 - GF Reserve for Capital Purchases	112.11000 (Cash)			$110.28	
	203 - Animal Fee Forfeiture	203.11000 (Cash)			$471.90	
	205 - Sports Facilities	205.11000 (Cash)			$3,556.29	
	215 - Streets - Grant Funded Projects	215.11000 (Cash)			$486.45	
	216 - Streets - Local Transportation	216.11000 (Cash)			$226.50	
	217 - Streets - Gas Tax	217.11000 (Cash)			$3,502.38	
	225 - Transportation Tax	225.11000 (Cash)			$1,574.55	
	228 - Park Development Tax	228.11000 (Cash)			$747.50	
	242 - Computer Replacement	242.11000 (Cash)			$6,640.23	
	246 - Landscape Assessment	246.11000 (Cash)			$2,193.91	
	255 - CDBG	255.11000 (Cash)			$501.12	
	256 - Stanislaus Housing Consortia	256.11000 (Cash)			$621.29	
	265 - Fire Department Grants	265.11000 (Cash)			$1,158.67	
	266 - Police Services Grants	266.11000 (Cash)			$223.12	
	270 - Recreation Grants	270.11000 (Cash)			$2,973.42	
	405 - Building	405.11000 (Cash)			$378.27	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$9,224.99	
	420 - WATER	420.11000 (Cash)			$2,383.72	
	426 - Transit - Fixed Route	426.11000 (Cash)			$136.58	
	501 - Information Technology	501.11000 (Cash)			$69.56	
	502 - Engineering	502.11000 (Cash)			$1,371.44	

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	505 - Fleet		505.11000 (Cash)		$12.87	
99816	10/23/2014	Open	Accounts Payable	VERIZON WIRELESS		$583.16
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$28.07	
	405 - Building		405.11000 (Cash)		$87.76	
	502 - Engineering		502.11000 (Cash)		$467.33	
99817	10/23/2014	Open	Accounts Payable	VINE & SONS INC, ER		$984.94
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$366.01	
	205 - Sports Facilities		205.11000 (Cash)		$41.31	
	217 - Streets - Gas Tax		217.11000 (Cash)		$64.19	
	246 - Landscape Assessment		246.11000 (Cash)		$80.51	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$217.45	
	420 - WATER		420.11000 (Cash)		$86.25	
	425 - Transit - Dial-A-Ride		425.11000 (Cash)		$25.31	
	426 - Transit - Fixed Route		426.11000 (Cash)		$84.56	
	502 - Engineering		502.11000 (Cash)		$19.35	
99818	10/23/2014	Open	Accounts Payable	WILLEY PRINTING CO		$859.93
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$859.93	
99819	10/23/2014	Open	Accounts Payable	AMERICAN RIVER COLLEGE		$85.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$85.00	
99820	10/23/2014	Open	Accounts Payable	AMERICAN RIVER COLLEGE		$182.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$182.00	
99821	10/23/2014	Open	Accounts Payable	CANO, RAMIRO		$18.00
	Paying Fund		Cash Account		Amount	
	203 - Animal Fee Forfeiture		203.11000 (Cash)		$18.00	
99822	10/23/2014	Open	Accounts Payable	CLAES, JACK		$2,663.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$2,663.00	
99823	10/23/2014	Open	Accounts Payable	COOLEY, STACY		$128.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$128.00	
99824	10/23/2014	Open	Accounts Payable	COURTYARD BY MARRIOTT		$660.00
	Paying Fund		Cash Account		Amount	

Payment Register

From Payment Date: 10/17/2014 - To Payment Date: 10/23/2014

	110 - General Fund	110.11000 (Cash)			$660.00	
99825	10/23/2014 Open		Accounts Payable	CPRS District 5		$57.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$57.00	
99826	10/23/2014 Open		Accounts Payable	CRAWFORD, STEVE		$162.00
	Paying Fund	Cash Account			Amount	
	201 - Asset Forfeiture	201.11000 (Cash)			$162.00	
99827	10/23/2014 Open		Accounts Payable	ECHANDI-SMITH, JAMIE		$162.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$162.00	
99828	10/23/2014 Open		Accounts Payable	HALL, DAVID		$162.00
	Paying Fund	Cash Account			Amount	
	201 - Asset Forfeiture	201.11000 (Cash)			$162.00	
99829	10/23/2014 Open		Accounts Payable	HALL EQUITIES GROUP		$4,143.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$4,143.00	
99830	10/23/2014 Open		Accounts Payable	HERNANDEZ, JULIO		$1,221.13
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$1,221.13	
99831	10/23/2014 Open		Accounts Payable	HILTON ANAHEIM		$1,232.70
	Paying Fund	Cash Account			Amount	
	201 - Asset Forfeiture	201.11000 (Cash)			$1,232.70	
99832	10/23/2014 Open		Accounts Payable	HILTON ANAHEIM		$48.00
	Paying Fund	Cash Account			Amount	
	201 - Asset Forfeiture	201.11000 (Cash)			$48.00	
99833	10/23/2014 Open		Accounts Payable	HUMPHRES, KEITH		$225.00
	Paying Fund	Cash Account			Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$225.00	
99834	10/23/2014 Open		Accounts Payable	INDERBITZEN, PAUL		$290.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$290.00	
99835	10/23/2014 Open		Accounts Payable	LEWIS, MAYRA		$250.00
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$250.00	
99836	10/23/2014 Open		Accounts Payable	LION'S GATE HOTEL		$1,100.45
	Paying Fund	Cash Account			Amount	
	110 - General Fund	110.11000 (Cash)			$1,100.45	

Payment Register

From Payment Date: 10/17/2014 - To Payment Date: 10/23/2014

99837	10/23/2014	Open	Accounts Payable	LION'S GATE HOTEL		$372.51
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$372.51	
99838	10/23/2014	Open	Accounts Payable	PARMLEY, MICHAEL		$162.00
	Paying Fund		Cash Account		Amount	
	201 - Asset Forfeiture		201.11000 (Cash)		$162.00	
99839	10/23/2014	Open	Accounts Payable	RODRIGUEZ, JOEY		$290.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$290.00	
99840	10/23/2014	Open	Accounts Payable	RYAN & ASSOC. PUBLIC RELATIONS		$595.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$595.00	
99841	10/23/2014	Open	Accounts Payable	SEDERQUIST, GARY		$1,100.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$1,100.00	
99842	10/23/2014	Open	Accounts Payable	SHAW, DAVID		$162.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$162.00	
99843	10/23/2014	Open	Accounts Payable	STANLEY, CAROLYN		$250.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$250.00	
99844	10/23/2014	Open	Accounts Payable	TRAINING FOR SAFETY, INCORPORATED		$296.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$296.00	
99845	10/23/2014	Open	Accounts Payable	URISTEGUY, CELIA		$24.00
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$24.00	
99846	10/23/2014	Open	Accounts Payable	VALENCIA, JOSE		$900.80
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$900.80	
99847	10/23/2014	Open	Accounts Payable	WEST, BIMLEY		$18.00
	Paying Fund		Cash Account		Amount	
	203 - Animal Fee Forfeiture		203.11000 (Cash)		$18.00	

Type Check Totals: 100 Transactions $484,846.55

City of Turlock

Payment Register

From Payment Date: 10/17/2014 - To Payment Date: 10/23/2014

AP - Accounts Payable Totals

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	100	$484,846.55	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	100	$484,846.55	$0.00

All	Status	Count	Transaction Amount	Reconciled Amount
	Open	100	$484,846.55	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	100	$484,846.55	$0.00

Grand Totals:

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	100	$484,846.55	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	100	$484,846.55	$0.00

All	Status	Count	Transaction Amount	Reconciled Amount
	Open	100	$484,846.55	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	100	$484,846.55	$0.00

Payment Register

From Payment Date: 10/24/2014 - To Payment Date: 10/30/2014

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
AP - Accounts Payable									
Check									
99848	10/29/2014	Open			Accounts Payable	ST BOARD OF EQUALIZATION	$1,377.95		
	Paying Fund			Cash Account		Amount			
	505 - Fleet			505.11000 (Cash)		$1,377.95			
99849	10/30/2014	Open			Accounts Payable	A & G SALES PROMOTION LTD	$902.56		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$902.56			
99850	10/30/2014	Open			Accounts Payable	AFLAC	$5,604.19		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$5,604.19			
99851	10/30/2014	Open			Accounts Payable	AFLAC GROUP INSURANCE	$2,941.84		
	Paying Fund			Cash Account		Amount			
	104 - Payroll Clearing Fund			104.11000 (Cash)		$2,941.84			
99852	10/30/2014	Open			Accounts Payable	ARMOR FIRE EXTINGUISHER	$216.73		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$216.73			
99853	10/30/2014	Open			Accounts Payable	AT & T	$816.03		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$816.03			
99854	10/30/2014	Open			Accounts Payable	AT&T / CALNET 2	$5,279.89		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$4,607.47			
	205 - Sports Facilities			205.11000 (Cash)		$40.96			
	255 - CDBG			255.11000 (Cash)		$13.61			
	405 - Building			405.11000 (Cash)		$12.85			
	410 - WATER QUALITY CONTROL (WQC)			410.11000 (Cash)		$266.27			
	420 - WATER			420.11000 (Cash)		$67.78			
	426 - Transit - Fixed Route			426.11000 (Cash)		$66.88			
	501 - Information Technology			501.11000 (Cash)		$87.54			
	502 - Engineering			502.11000 (Cash)		$13.83			
	505 - Fleet			505.11000 (Cash)		$102.70			
99855	10/30/2014	Open			Accounts Payable	AT&T INFO SYSTEM	$360.87		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$360.87			
99856	10/30/2014	Open			Accounts Payable	ATKINSON, ANDELSON, LOYA, RUUD & ROMO	$1,058.19		
	Paying Fund			Cash Account		Amount			

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Payment Register

From Payment Date: 10/24/2014 - To Payment Date: 10/30/2014

	110 - General Fund	110.11000 (Cash)		$1,058.19	
99857	10/30/2014 Open		Accounts Payable	BIRCH/CALIFORNIA DIESEL COMPLIANCE INC	$75.00
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$75.00	
99858	10/30/2014 Open		Accounts Payable	CENTRAL VALLEY CONCRETE	$286.55
	Paying Fund	Cash Account		Amount	
	246 - Landscape Assessment	246.11000 (Cash)		$286.55	
99859	10/30/2014 Open		Accounts Payable	CHARTER COMMUNICATIONS	$309.49
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$149.50	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$49.99	
	501 - Information Technology	501.11000 (Cash)		$110.00	
99860	10/30/2014 Open		Accounts Payable	CINCINNATI LIFE INS INC	$785.94
	Paying Fund	Cash Account		Amount	
	104 - Payroll Clearing Fund	104.11000 (Cash)		$785.94	
99861	10/30/2014 Open		Accounts Payable	CITY OF TURLOCK - CASH	$140.32
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$69.38	
	266 - Police Services Grants	266.11000 (Cash)		$55.00	
	502 - Engineering	502.11000 (Cash)		$15.94	
99862	10/30/2014 Open		Accounts Payable	COMBINED BENEFITS ADMIN C	$61,753.75
	Paying Fund	Cash Account		Amount	
	511 - Health Care	511.11000 (Cash)		$61,753.75	
99863	10/30/2014 Open		Accounts Payable	COMBINED BENEFITS ADMIN-	$8,440.24
	Paying Fund	Cash Account		Amount	
	511 - Health Care	511.11000 (Cash)		$8,440.24	
99864	10/30/2014 Open		Accounts Payable	COMBINED BENEFITS ADMIN/	$1,169.62
	Paying Fund	Cash Account		Amount	
	511 - Health Care	511.11000 (Cash)		$1,169.62	
99865	10/30/2014 Open		Accounts Payable	COMBINED BENEFITS ADMIN=	$131,520.13
	Paying Fund	Cash Account		Amount	
	511 - Health Care	511.11000 (Cash)		$131,520.13	
99866	10/30/2014 Open		Accounts Payable	HILMAR READY MIX	$182.97
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$75.34	
	420 - WATER	420.11000 (Cash)		$107.63	
99867	10/30/2014 Open		Accounts Payable	ING LIFE INSURANCE AND	$26.00
	Paying Fund	Cash Account		Amount	
	104 - Payroll Clearing Fund	104.11000 (Cash)		$26.00	

Payment Register

From Payment Date: 10/24/2014 - To Payment Date: 10/30/2014

99868	10/30/2014	Open	Accounts Payable	ITRON INC		$5,141.51
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$5,141.51	
99869	10/30/2014	Open	Accounts Payable	JOBS AVAILABLE		$834.60
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$561.60	
	502 - Engineering		502.11000 (Cash)		$273.00	
99870	10/30/2014	Open	Accounts Payable	LEHIGH HANSON INC		$254.61
	Paying Fund		Cash Account		Amount	
	217 - Streets - Gas Tax		217.11000 (Cash)		$236.38	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$18.23	
99871	10/30/2014	Open	Accounts Payable	MADRUGA BROS ENT INC		$640.50
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$486.50	
	255 - CDBG		255.11000 (Cash)		$10.50	
	405 - Building		405.11000 (Cash)		$7.00	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$87.50	
	420 - WATER		420.11000 (Cash)		$10.50	
	502 - Engineering		502.11000 (Cash)		$38.50	
99872	10/30/2014	Open	Accounts Payable	MICROBIZ SECURITY COMPANY		$15,176.35
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$15,176.35	
99873	10/30/2014	Open	Accounts Payable	P G & E		$3,764.45
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$159.95	
	426 - Transit - Fixed Route		426.11000 (Cash)		$3,604.50	
99874	10/30/2014	Open	Accounts Payable	PRECISION CONCRETE CUTTING		$9,911.00
	Paying Fund		Cash Account		Amount	
	301 - Capital Improvements		301.11000 (Cash)		$9,911.00	
99875	10/30/2014	Open	Accounts Payable	PRESORT CTR STOCKTON INC		$9,475.98
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$3,158.67	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$3,158.66	
	420 - WATER		420.11000 (Cash)		$3,158.65	
99876	10/30/2014	Open	Accounts Payable	SAFE-T-LITE CO INC		$102.14
	Paying Fund		Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$102.14	
99877	10/30/2014	Open	Accounts Payable	SOUTHWEST SCHOOL &		$767.30

Payment Register

From Payment Date: 10/24/2014 - To Payment Date: 10/30/2014

	Paying Fund	Cash Account		Amount	
	270 - Recreation Grants	270.11000 (Cash)		$767.30	
99878	10/30/2014 Open		Accounts Payable	STANISLAUS COUNTY CLERK RECORDER	$15.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$15.00	
99879	10/30/2014 Open		Accounts Payable	T I D	$78,664.90
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$2,854.43	
	205 - Sports Facilities	205.11000 (Cash)		$5,009.27	
	216 - Streets - Local Transportation	216.11000 (Cash)		$2,388.48	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$1,497.22	
	420 - WATER	420.11000 (Cash)		$65,239.48	
	426 - Transit - Fixed Route	426.11000 (Cash)		$256.84	
	505 - Fleet	505.11000 (Cash)		$1,419.18	
99880	10/30/2014 Open		Accounts Payable	TURLOCK DOWNTOWN &	$150.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$150.00	
99881	10/30/2014 Open		Accounts Payable	TURLOCK SCAVENGER/SWEEPIN	$19,931.50
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$19,931.50	
99882	10/30/2014 Open		Accounts Payable	TURLOCK UMPIRE GROUP	$5,496.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$5,496.00	
99883	10/30/2014 Open		Accounts Payable	UNIVAR USA INC	$8,010.05
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$8,010.05	
99884	10/30/2014 Open		Accounts Payable	VISION SERVICE PLAN CA	$6,911.40
	Paying Fund	Cash Account		Amount	
	511 - Health Care	511.11000 (Cash)		$6,911.40	
99885	10/30/2014 Open		Accounts Payable	BARAJAS, NORMA, PEREZ	$460.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$460.00	
99886	10/30/2014 Open		Accounts Payable	GARCIA, ELLEN	$260.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$260.00	
99887	10/30/2014 Open		Accounts Payable	NICHOLAS, ANNA	$500.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$500.00	

Payment Register

From Payment Date: 10/24/2014 - To Payment Date: 10/30/2014

99888	10/30/2014	Open	Accounts Payable	PITCOCK, MIKE		$214.81
	Paying Fund		Cash Account		Amount	
	426 - Transit - Fixed Route		426.11000 (Cash)		$214.81	

Type Check Totals: 41 Transactions $389,930.36

AP - Accounts Payable Totals

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	41	$389,930.36	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	41	$389,930.36	$0.00

All	Status	Count	Transaction Amount	Reconciled Amount
	Open	41	$389,930.36	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	41	$389,930.36	$0.00

Grand Totals:

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	**41**	**$389,930.36**	**$0.00**
	Reconciled	**0**	**$0.00**	**$0.00**
	Voided	**0**	**$0.00**	**$0.00**
	Stopped	**0**	**$0.00**	**$0.00**
	Total	**41**	**$389,930.36**	**$0.00**

All	Status	Count	Transaction Amount	Reconciled Amount
	Open	**41**	**$389,930.36**	**$0.00**
	Reconciled	**0**	**$0.00**	**$0.00**
	Voided	**0**	**$0.00**	**$0.00**
	Stopped	**0**	**$0.00**	**$0.00**
	Total	**41**	**$389,930.36**	**$0.00**

Payment Register

From Payment Date: 10/31/2014 - To Payment Date: 11/6/2014

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
AP - Accounts Payable									
Check									
99889	11/05/2014	Open			Utility Management Refund	2561 LLC	$118.81		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$118.81			
99890	11/05/2014	Open			Utility Management Refund	ANGELO, ROBERT	$78.25		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$46.79			
	420 - WATER			420.11000 (Cash)		$31.46			
99891	11/05/2014	Open			Utility Management Refund	BAPTISTA, LON, L	$141.59		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$141.59			
99892	11/05/2014	Open			Utility Management Refund	BONGAERTZ, YANNIC	$187.26		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$187.26			
99893	11/05/2014	Open			Utility Management Refund	BRISENO, RICK	$43.30		
	Paying Fund			Cash Account		Amount			
	110 - General Fund			110.11000 (Cash)		$25.87			
	410 - WATER QUALITY CONTROL (WQC)			410.11000 (Cash)		$0.98			
	420 - WATER			420.11000 (Cash)		$16.45			
99894	11/05/2014	Open			Utility Management Refund	CENTRAL VALLEY PROP MGMNT	$82.46		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$82.46			
99895	11/05/2014	Open			Utility Management Refund	CENTRAL VALLEY PROPERTY MANAGEMENT	$65.81		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$65.81			
99896	11/05/2014	Open			Utility Management Refund	CLARK, LEE	$199.34		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$199.34			
99897	11/05/2014	Open			Utility Management Refund	FIGUEROA-SOTO, IVAN	$211.68		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$211.68			
99898	11/05/2014	Open			Utility Management Refund	GREWAL, HARINDER	$66.82		
	Paying Fund			Cash Account		Amount			
	420 - WATER			420.11000 (Cash)		$66.82			
99899	11/05/2014	Open			Utility Management	HARRIS, MARVIN	$195.94		

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			Refund			
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$195.94	
99900	11/05/2014	Open	Utility Management Refund	JOYCE, ZAIN		$98.86
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$0.84	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$1.90	
	420 - WATER		420.11000 (Cash)		$96.12	
99901	11/05/2014	Open	Utility Management Refund	KIRKES, MARK		$25.00
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$25.00	
99902	11/05/2014	Open	Utility Management Refund	LEE, SHAKONDI		$103.59
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$103.59	
99903	11/05/2014	Open	Utility Management Refund	LINDQUIST, PETER		$150.70
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$150.70	
99904	11/05/2014	Open	Utility Management Refund	MARTINEZ, SAROEUN		$35.15
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$0.84	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)		$1.90	
	420 - WATER		420.11000 (Cash)		$32.41	
99905	11/05/2014	Open	Utility Management Refund	NESTORIS, RAYMOND		$86.62
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$86.62	
99906	11/05/2014	Open	Utility Management Refund	NUNES, JOHN		$110.25
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$110.25	
99907	11/05/2014	Open	Utility Management Refund	NUNES, JOHN		$88.50
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$88.50	
99908	11/05/2014	Open	Utility Management Refund	OPFFER, ELENIE		$154.28
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$154.28	
99909	11/05/2014	Open	Utility Management Refund	PARK, SOO		$99.75
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$99.75	
99910	11/05/2014	Open	Utility Management	PEREZ, JORGE		$100.00

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	Paying Fund		Cash Account	Refund	Amount	
	420 - WATER		420.11000 (Cash)		$100.00	
99911	11/05/2014	Open		Utility Management Refund	REALTY INCOME CORP	$87.15
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$87.15	
99912	11/05/2014	Open		Utility Management Refund	SANDOVAL, CARLOS	$80.31
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$80.31	
99913	11/05/2014	Open		Utility Management Refund	SCHMIDT, MIKE	$86.27
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$86.27	
99914	11/05/2014	Open		Utility Management Refund	STUART, SHAWN	$181.94
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$181.94	
99915	11/05/2014	Open		Utility Management Refund	UBALLE, NATALIE, FELICIA	$95.69
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$95.69	
99916	11/05/2014	Open		Utility Management Refund	WIERSMA, JOHN	$137.92
	Paying Fund		Cash Account		Amount	
	420 - WATER		420.11000 (Cash)		$137.92	
99917	11/06/2014	Open		Accounts Payable	A & A PORTABLES INC	$172.29
	Paying Fund		Cash Account		Amount	
	301 - Capital Improvements		301.11000 (Cash)		$172.29	
99918	11/06/2014	Open		Accounts Payable	ALL VALLEY SMOG INC	$49.50
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$24.75	
	420 - WATER		420.11000 (Cash)		$24.75	
99919	11/06/2014	Open		Accounts Payable	ALTA PLANNING + DESIGN, INC.	$8,430.00
	Paying Fund		Cash Account		Amount	
	216 - Streets - Local Transportation		216.11000 (Cash)		$8,430.00	
99920	11/06/2014	Open		Accounts Payable	AMERICAN MESSAGING	$28.95
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$28.95	
99921	11/06/2014	Open		Accounts Payable	AMERICAN MESSAGING	$49.24
	Paying Fund		Cash Account		Amount	
	110 - General Fund		110.11000 (Cash)		$49.24	
99922	11/06/2014	Open		Accounts Payable	AMERICAN REPROGRAPHICS CO LLC	$277.72
	Paying Fund		Cash Account		Amount	

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	502 - Engineering	502.11000 (Cash)		$277.72	
99923	11/06/2014 Open		Accounts Payable	APPLIED COMPUTER SOLUTION	$18,901.33
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$6,411.33	
	501 - Information Technology	501.11000 (Cash)		$12,490.00	
99924	11/06/2014 Open		Accounts Payable	AT&T / CALNET 2	$761.35
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$262.59	
	255 - CDBG	255.11000 (Cash)		$65.78	
	405 - Building	405.11000 (Cash)		$60.07	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$179.37	
	420 - WATER	420.11000 (Cash)		$179.38	
	502 - Engineering	502.11000 (Cash)		$14.16	
99925	11/06/2014 Open		Accounts Payable	AT&T MOBILITY	$3,093.95
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$2,460.76	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$341.93	
	501 - Information Technology	501.11000 (Cash)		$250.66	
	502 - Engineering	502.11000 (Cash)		$40.60	
99926	11/06/2014 Open		Accounts Payable	AVAYA INC	$12.07
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$12.07	
99927	11/06/2014 Open		Accounts Payable	BURTON'S FIRE APPARATUS	$291.36
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$291.36	
99928	11/06/2014 Open		Accounts Payable	CENTRAL SANITARY SUPPLY	$344.93
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$344.93	
99929	11/06/2014 Open		Accounts Payable	CERES COURIER INC, THE	$175.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$175.00	
99930	11/06/2014 Open		Accounts Payable	CHAMPION INDUSTRIAL	$802.52
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$201.67	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$600.85	
99931	11/06/2014 Open		Accounts Payable	CHILDREN'S CRISIS CENTER	$495.00
	Paying Fund	Cash Account		Amount	
	255 - CDBG	255.11000 (Cash)		$495.00	
99932	11/06/2014 Open		Accounts Payable	CITY OF TURLOCK - CASH	$238.10
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$52.00	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$36.50	
	502 - Engineering	502.11000 (Cash)		$149.60	
99933	11/06/2014 Open		Accounts Payable	COMBINED BENEFITS ADMIN C	$70,597.29

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	Paying Fund	Cash Account			Amount
	511 - Health Care	511.11000 (Cash)			$70,597.29
99934	11/06/2014 Open		Accounts Payable	COMMUNITY VETERINARY CLIN	$411.00
	Paying Fund	Cash Account			Amount
	203 - Animal Fee Forfeiture	203.11000 (Cash)			$351.00
	266 - Police Services Grants	266.11000 (Cash)			$60.00
99935	11/06/2014 Open		Accounts Payable	COSTCO	$2,490.68
	Paying Fund	Cash Account			Amount
	110 - General Fund	110.11000 (Cash)			$1,769.53
	266 - Police Services Grants	266.11000 (Cash)			$142.68
	270 - Recreation Grants	270.11000 (Cash)			$578.47
99936	11/06/2014 Open		Accounts Payable	CUSTOM LOCKSMITH & ALARM INC	$1,131.00
	Paying Fund	Cash Account			Amount
	110 - General Fund	110.11000 (Cash)			$1,131.00
99937	11/06/2014 Open		Accounts Payable	DELTA WIRELESS & NETWORK	$268.71
	Paying Fund	Cash Account			Amount
	110 - General Fund	110.11000 (Cash)			$268.71
99938	11/06/2014 Open		Accounts Payable	DISABILITY RES AGENCY	$200.00
	Paying Fund	Cash Account			Amount
	255 - CDBG	255.11000 (Cash)			$200.00
99939	11/06/2014 Open		Accounts Payable	EQUIFAX	$23.45
	Paying Fund	Cash Account			Amount
	110 - General Fund	110.11000 (Cash)			$23.45
99940	11/06/2014 Open		Accounts Payable	FARIA, JAMIE	$242.00
	Paying Fund	Cash Account			Amount
	104 - Payroll Clearing Fund	104.11000 (Cash)			$242.00
99941	11/06/2014 Open		Accounts Payable	GOMES & SONS INC, JOE M	$19,353.30
	Paying Fund	Cash Account			Amount
	110 - General Fund	110.11000 (Cash)			$10,002.12
	205 - Sports Facilities	205.11000 (Cash)			$340.34
	217 - Streets - Gas Tax	217.11000 (Cash)			$1,877.62
	246 - Landscape Assessment	246.11000 (Cash)			$1,760.48
	405 - Building	405.11000 (Cash)			$245.80
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$2,440.14
	420 - WATER	420.11000 (Cash)			$932.86
	425 - Transit - Dial-A-Ride	425.11000 (Cash)			$914.16
	426 - Transit - Fixed Route	426.11000 (Cash)			$658.83
	502 - Engineering	502.11000 (Cash)			$180.95
99942	11/06/2014 Open		Accounts Payable	GROENIGER & COMPANY	$95.85
	Paying Fund	Cash Account			Amount
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)			$95.85
99943	11/06/2014 Open		Accounts Payable	HARDER'S PRINT SHOP INC	$2,240.43
	Paying Fund	Cash Account			Amount

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	425 - Transit - Dial-A-Ride	425.11000 (Cash)		$2,240.43	
99944	11/06/2014 Open		Accounts Payable	HILMAR READY MIX	$172.20
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$126.46	
	420 - WATER	420.11000 (Cash)		$45.74	
99945	11/06/2014 Open		Accounts Payable	HUB INT'L OF CA INS SVC	$747.54
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$747.54	
99946	11/06/2014 Open		Accounts Payable	HUNTINGTON COURT REPORTER	$1,612.38
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,612.38	
99947	11/06/2014 Open		Accounts Payable	IMAGE UNIFORMS(STANS) INC	$2,223.78
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$2,223.78	
99948	11/06/2014 Open		Accounts Payable	JCS PROPERTIES LLC	$1,414.07
	Paying Fund	Cash Account		Amount	
	625 - Successor Agency - LMI	625.11000 (Cash)		$1,414.07	
99949	11/06/2014 Open		Accounts Payable	L C ACTION	$1,800.29
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,800.29	
99950	11/06/2014 Open		Accounts Payable	LEHIGH HANSON INC	$143.83
	Paying Fund	Cash Account		Amount	
	217 - Streets - Gas Tax	217.11000 (Cash)		$71.92	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$71.91	
99951	11/06/2014 Open		Accounts Payable	MAGIC SANDS MOBILE HOME PARK	$281.07
	Paying Fund	Cash Account		Amount	
	625 - Successor Agency - LMI	625.11000 (Cash)		$281.07	
99952	11/06/2014 Open		Accounts Payable	MEYERS NAVE	$8,698.20
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$8,698.20	
99953	11/06/2014 Open		Accounts Payable	MO-CAL OFFICE SOLUTIONS INC	$89.30
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$29.76	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$29.77	
	420 - WATER	420.11000 (Cash)		$29.77	
99954	11/06/2014 Open		Accounts Payable	MONTE VISTA SMALL ANIMAL HOSPITAL	$2,161.64
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$776.64	
	203 - Animal Fee Forfeiture	203.11000 (Cash)		$1,145.00	
	266 - Police Services Grants	266.11000 (Cash)		$240.00	
99955	11/06/2014 Open		Accounts Payable	MULBERRY MOBILE PARK	$167.73
	Paying Fund	Cash Account		Amount	

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	625 - Successor Agency - LMI	625.11000 (Cash)		$167.73	
99956	11/06/2014 Open	Accounts Payable	MUNISERVICES LLC		$625.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$625.00	
99957	11/06/2014 Open	Accounts Payable	NEW WORLD SYSTEM CORP		$600.00
	Paying Fund	Cash Account		Amount	
	240 - Small Equipment Replacement	240.11000 (Cash)		$600.00	
99958	11/06/2014 Open	Accounts Payable	NEXT LEVEL PARTS INC		$447.25
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$177.81	
	217 - Streets - Gas Tax	217.11000 (Cash)		$269.44	
99959	11/06/2014 Open	Accounts Payable	OMNI-MEANS INC		$38,275.69
	Paying Fund	Cash Account		Amount	
	305 - Capital Facility Fees	305.11000 (Cash)		$38,275.69	
99960	11/06/2014 Open	Accounts Payable	P G & E		$8.80
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$8.80	
99961	11/06/2014 Open	Accounts Payable	ROMEO MEDICAL CLINIC		$50.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$50.00	
99962	11/06/2014 Open	Accounts Payable	SAN DIEGO POLICE EQUIP		$1,641.37
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,641.37	
99963	11/06/2014 Open	Accounts Payable	SHELL FLEET PLUS		$134.48
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$134.48	
99964	11/06/2014 Open	Accounts Payable	SIERRA CHEMICAL CO		$6,144.10
	Paying Fund	Cash Account		Amount	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$6,144.10	
99965	11/06/2014 Open	Accounts Payable	SIMPLEX GRINNELL LP		$805.00
	Paying Fund	Cash Account		Amount	
	305 - Capital Facility Fees	305.11000 (Cash)		$805.00	
99966	11/06/2014 Open	Accounts Payable	SOUSA-JOHNSON, ROSEMARY		$262.34
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$262.34	
99967	11/06/2014 Open	Accounts Payable	SOUTHWEST SCHOOL &		$707.63
	Paying Fund	Cash Account		Amount	
	270 - Recreation Grants	270.11000 (Cash)		$707.63	
99968	11/06/2014 Open	Accounts Payable	STANISLAUS CO SUPERIOR CT		$12.50
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$12.50	
99969	11/06/2014 Open	Accounts Payable	STANISLAUS CTY SHERIFF		$410.82
	Paying Fund	Cash Account		Amount	

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	104 - Payroll Clearing Fund	104.11000 (Cash)		$410.82	
99970	11/06/2014 Open		Accounts Payable	STATE OF CALIFORNIA	$864.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$864.00	
99971	11/06/2014 Open		Accounts Payable	STROBES N MORE INC.	$1,653.05
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,653.05	
99972	11/06/2014 Open		Accounts Payable	SUPPORT PAYMENT CLEARING	$439.13
	Paying Fund	Cash Account		Amount	
	104 - Payroll Clearing Fund	104.11000 (Cash)		$439.13	
99973	11/06/2014 Open		Accounts Payable	T I D	$11,251.92
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,220.14	
	216 - Streets - Local Transportation	216.11000 (Cash)		$757.97	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$2,052.29	
	420 - WATER	420.11000 (Cash)		$4,677.23	
	426 - Transit - Fixed Route	426.11000 (Cash)		$250.14	
	505 - Fleet	505.11000 (Cash)		$2,294.15	
99974	11/06/2014 Open		Accounts Payable	TANKO STREET LIGHTING SVC	$1,395.05
	Paying Fund	Cash Account		Amount	
	246 - Landscape Assessment	246.11000 (Cash)		$1,395.05	
99975	11/06/2014 Open		Accounts Payable	TEICHERT CONSTRUCTION INC	$251,704.40
	Paying Fund	Cash Account		Amount	
	305 - Capital Facility Fees	305.11000 (Cash)		$251,704.40	
99976	11/06/2014 Open		Accounts Payable	TURLOCK CHAMBER COMMERCE	$850.00
	Paying Fund	Cash Account		Amount	
	265 - Fire Department Grants	265.11000 (Cash)		$850.00	
99977	11/06/2014 Open		Accounts Payable	TURLOCK CITY TOW INC	$108.00
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$81.00	
	410 - WATER QUALITY CONTROL (WQC)	410.11000 (Cash)		$27.00	
99978	11/06/2014 Open		Accounts Payable	TURLOCK SPAY & NEUTER CLINIC	$680.00
	Paying Fund	Cash Account		Amount	
	203 - Animal Fee Forfeiture	203.11000 (Cash)		$380.00	
	266 - Police Services Grants	266.11000 (Cash)		$300.00	
99979	11/06/2014 Open		Accounts Payable	UTILITY TELEPHONE, INC.	$522.48
	Paying Fund	Cash Account		Amount	
	501 - Information Technology	501.11000 (Cash)		$522.48	
99980	11/06/2014 Open		Accounts Payable	VERIZON WIRELESS	$1,032.73
	Paying Fund	Cash Account		Amount	
	110 - General Fund	110.11000 (Cash)		$1,032.73	
99981	11/06/2014 Open		Accounts Payable	VIRTUAL PROJECT MANAGER LLC	$500.00
	Paying Fund	Cash Account		Amount	
	502 - Engineering	502.11000 (Cash)		$500.00	

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99982	11/06/2014	Open	Accounts Payable	WEST PUBLISHING CORPORATION	$144.32
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$144.32	
99983	11/06/2014	Open	Accounts Payable	WESTERN VIEW MOBILE RANCH	$3,145.68
	Paying Fund		Cash Account	Amount	
	625 - Successor Agency - LMI		625.11000 (Cash)	$3,145.68	
99984	11/06/2014	Open	Accounts Payable	WESTFORK ESTATES	$723.70
	Paying Fund		Cash Account	Amount	
	625 - Successor Agency - LMI		625.11000 (Cash)	$723.70	
99985	11/06/2014	Open	Accounts Payable	ZEE MEDICAL SERVICE CO	$667.75
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$370.28	
	410 - WATER QUALITY CONTROL (WQC)		410.11000 (Cash)	$251.73	
	502 - Engineering		502.11000 (Cash)	$45.74	
99986	11/06/2014	Open	Accounts Payable	ACTIVE 20-30 CLUB OF TURLOCK	$500.00
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$500.00	
99987	11/06/2014	Open	Accounts Payable	ADVANCE MARKING SYSTEMS	$23.89
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$23.89	
99988	11/06/2014	Open	Accounts Payable	GARCIA, RAYMOND	$225.00
	Paying Fund		Cash Account	Amount	
	217 - Streets - Gas Tax		217.11000 (Cash)	$225.00	
99989	11/06/2014	Open	Accounts Payable	MOUW, LARRY	$345.00
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$345.00	
99990	11/06/2014	Open	Accounts Payable	SANCHEZ, SABRINA	$64.00
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$64.00	
99991	11/06/2014	Open	Accounts Payable	TONARELLI, STACEY	$51.14
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$51.14	
99992	11/06/2014	Open	Accounts Payable	VELA, BARBARA	$281.00
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$281.00	
99993	11/06/2014	Open	Accounts Payable	WASDEN, ROY	$61.00
	Paying Fund		Cash Account	Amount	
	110 - General Fund		110.11000 (Cash)	$61.00	
Type Check Totals:			105 Transactions		$481,160.51

AP - Accounts Payable Totals

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	105	$481,160.51	$0.00
	Reconciled	0	$0.00	$0.00

Payment Register

From Payment Date: 10/31/2014 - To Payment Date: 11/6/2014

	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	105	$481,160.51	$0.00

All	Status	Count	Transaction Amount	Reconciled Amount
	Open	105	$481,160.51	$0.00
	Reconciled	0	$0.00	$0.00
	Voided	0	$0.00	$0.00
	Stopped	0	$0.00	$0.00
	Total	105	$481,160.51	$0.00

Grand Totals:

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	**105**	**$481,160.51**	**$0.00**
	Reconciled	**0**	**$0.00**	**$0.00**
	Voided	**0**	**$0.00**	**$0.00**
	Stopped	**0**	**$0.00**	**$0.00**
	Total	**105**	**$481,160.51**	**$0.00**

All	Status	Count	Transaction Amount	Reconciled Amount
	Open	**105**	**$481,160.51**	**$0.00**
	Reconciled	**0**	**$0.00**	**$0.00**
	Voided	**0**	**$0.00**	**$0.00**
	Stopped	**0**	**$0.00**	**$0.00**
	Total	**105**	**$481,160.51**	**$0.00**

5B

NOVEMBER 18, 2014
6:00 p.m.
City of Turlock Yosemite Room
156 S. Broadway, Turlock, California

DRAFT

MINUTES
Regular Meeting
Turlock City Council

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1. A. **CALL TO ORDER** –Mayor Lazar called the meeting to order at 6:00 p.m.
PRESENT: Councilmembers Amy Bublak, Bill DeHart, Steven Nascimento, Forrest White, and Mayor John S. Lazar.
ABSENT: None

B. **SALUTE TO THE FLAG**: Vice-Mayor Forrest White led the salute to the flag.

2. **PROCLAMATIONS, PRESENTATIONS, RECOGNITIONS, ANNOUNCEMENTS & APPOINTMENTS:**

A. Mayor Lazar presented a Proclamation to Donald Babadalir in Support of Assyrian and Iraqi Christians Suffering Persecution in Iraq.

B. Mayor Lazar recommended that Robert Fernandes, Buster Lucas, and Jerry Powell be reappointed to terms expiring on June 30, 2017, and Kyle Kirkes and Craig Pitau be appointed to vacant terms expiring on June 30, 2016, on the Development Collaborative Advisory Committee (DCAC).

Action: Motion by Councilmember DeHart, seconded by Councilmember White, reappointing Robert Fernandes, Buster Lucas, and Jerry Powell to terms expiring on June 30, 2017, and appointing Kyle Kirkes and Craig Pitau to vacant terms expiring on June 30, 2016, on the Development Collaborative Advisory Committee (DCAC). Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

C. Mayor Lazar recommended that Garner Reynolds be appointed as Member, and Michael Cooke be appointed as Alternate Member as the City of Turlock's representatives to the Stanislaus County Local Task Force on Solid Waste.

Action: Motion by Councilmember White, seconded by Councilmember DeHart, appointing Garner Reynolds as Member and Michael Cooke as Alternate Member as the City of Turlock's representatives to the Stanislaus County Local Task Force on Solid Waste. Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

3. A. **SPECIAL BRIEFINGS**: None

B. **STAFF UPDATES**

1. City Clerk Kellie Weaver provided an update on Board, Commission, and Committee vacancies.

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2. Development Services Director Mike Pitcock provided an update on Capital Projects and Building Activity including the Dianne Drive/Fulkerth Road project and Road Overlay projects on Hawkeye Avenue from Dels Lane to Olive Avenue and Geer Road from Monte Vista Avenue to Taylor Road.

3. Municipal Services Director Michael Cooke provided an update on utility billing procedures, including online utility account information, automatic monthly payment and paperless billing options, account summary information, water usage trends and comparisons, and future options such as an online app and bankers draft for payment options.

C. PUBLIC PARTICIPATION: None

4. A. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS: None

5. CONSENT CALENDAR:

Action: Motion by Councilmember Nascimento, seconded by Councilmember DeHart, to adopt the consent calendar. Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

A. **Resolution No. 2014-179** Accepting Demands of 10/2/14 in the amount of $543,563.51; Demands of 10/9/14 in the amount of $1,244,076.19; Demands of 10/16/14 in the amount of $739,108.77

B. *Motion*: Accepting Minutes of Regular Meeting of October 28, 2014

C. 1. *Motion*: Approving Amendment No. 1 to the Retainer Agreement (Contract No. 11-035) with Bureau Veritas North America, Inc. of Sacramento, California, for plan check services, in an amount not to exceed $125,000
2. *Motion*: Approving Amendment No. 1 to the Retainer Agreement (Contract No. 11-36) with 4Leaf, Inc. of Pleasanton, California, for plan check services, in an amount not to exceed $70,000
3. *Motion*: Approving Amendment No. 1 to the Retainer Agreement (Contract No. 11-037) with Interwest Consulting Group of Sacramento, California, for plan check services, in an amount not to exceed $75,000

D. 1. *Motion*: Approving a professional services agreement in an amount not to exceed $27,522 with Omni-Means Ltd., of Roseville, California, for traffic count data collection services, associated with City Project No. 14-63, "Traffic Count Data Collection"
2. **Resolution No. 2014-180** Appropriating $31,650 to account number 217-50-511.43060_010 "Contract Services – Traffic Count Data Collection" from Fund 217 "Gas Tax – Section 2103 Reserves," associated with City Project No. 14-63, "Traffic Count Data Collection"

E. **Resolution No. 2014-181** Authorizing the City Manager to sign and execute all documents related to an application for grant funds from the San Joaquin Valley Air Pollution Control District, under the Public Benefit Grants Program, for the purchase of five (5) CNG-powered pickup trucks

F. *Motion*: Accepting the Capital Facility Fee Program report for Fiscal Year 2013/14

G. 1. *Motion*: Approving a purchase and sale agreement with Turlock Real Estate Investors 1, LLC, for the purchase of portions of the Property in Fee (78,812 square feet) and portions of the Property as right-of-way for street purposes (3,980 square feet) of land described as 2618 Fulkerth Road (APN Nos. 089-019-027, 089-019-028 & 089-019-029), for the Fulkerth Road/Hwy 99 Interchange Project, in the amount of $827,920 plus half of escrow closing costs, with a total cost not to exceed $830,000 and authorizing the City Manager to sign all necessary documents to complete the transaction

2. **Resolution No. 2014-182** Appropriating $830,000 to account number 305-40-440.51270 "Construction Projects" to be funded from Fund 305 (Transportation) unappropriated reserves for the purchase of portions of the Property in Fee (78,812 square feet) and portions of the Property as right-of-way for street purposes (3,980 square feet) of land described as 2618 Fulkerth Road (APN Nos. 089-019-027, 089-019-028 & 089-019-029), for the Fulkerth Road/Hwy 99 Interchange Project

H. *Motion*: Approving the agreement with Polydyne, Inc., of Riceboro, Georgia, for cationic emulsion polymer, for the Turlock Regional Water Quality Control Facility for a period of twelve (12) months, in an amount not to exceed $142,000

I. *Motion*: Approving Amendment No. 2 to the agreement between the City of Turlock and Applied Pest Management, Inc., to include Municipal Services' Harding Drain Pump Station and the Northwest Water Storage Tank, and the Turlock Public Safety Facility, for pest control services, increasing the annual contract amount to $4,965

J. *Motion*: Approving the agreement between the City of Turlock and the 38th District Agricultural Association for the purpose of parking and turn around for the participants in the Annual Christmas Parade on Friday, December 5, 2014

K. **Resolution No. 2014-183** Authorizing the City Manager to execute of the State of California Standard Agreement for Housing Related Parks Grant Program

L. **Resolution No. 2014-184** Appropriating $1,200 to account number 227-40-135.51011 "Computer Software" from Fund 227 "Public Safety Tax" reserve balance for New World Systems to refine converted data

M. 1. *Motion*: Approving the agreement with New World Systems for licensed standard software and implementation services of a third party applicant interface

2. **Resolution No. 2014-185** Appropriating $5,100 to account number 240-00-000-200.51005_002 "Communications Financial Software" from Fund 240 "Small Equipment Replacement-General Administration" reserve balance for a third party interface for electronic applicant tracking

N. **Resolution No. 2014-186** Making certain findings and determinations in compliance with Section XIII.B of the California Constitution and Section 7910 of the California Government Code and setting the Appropriation Limit for the City of Turlock for the Fiscal Year 2014/15

O. *Motion*: Rejecting Claim for Damages filed by Russell Stanley Avilla

6. FINAL READINGS: None

7. PUBLIC HEARINGS

A. Mayor Lazar requested Public Hearing Item 7A, "Repealing and Replacing Turlock Municipal Code Title 9, Zoning Ordinance, in its entirety," originally noticed for the November 18, 2014 City Council meeting, be continued to the January 13, 2015 meeting.

Action: Motion by Councilmember DeHart, seconded by Councilmember Nascimento, to continue Public Hearing Item 7A, "Repealing and Replacing Turlock Municipal Code Title 9, Zoning Ordinance, in its entirety," originally noticed for the November 18, 2014 City Council meeting, to the January 13, 2015 meeting. Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

B. Mayor Lazar requested that Public Hearing Item 7B, "Establishing a Trench Restoration Fund and Trench Restoration Fees in accordance with Turlock Municipal Code Title 7, Chapter 4, Article 2 and amending Turlock Municipal Code Title 7, Chapter 4, Article 2 regarding Excavation," originally noticed for the November 18, 2014 City Council meeting, be continued to the January 27, 2015 meeting.

Action: Motion by Councilmember DeHart, seconded by Councilmember Nascimento, to continue Public Hearing Item 7B, "Establishing a Trench Restoration Fund and Trench Restoration Fees in accordance with Turlock Municipal Code Title 7, Chapter 4, Article 2 and amending Turlock Municipal Code Title 7, Chapter 4, Article 2 regarding Excavation," originally noticed for the November 18, 2014 City Council meeting, to the January 27, 2015 meeting. Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

C. Associate Planner Katie Quintero presented the staff report on the request to adopt a Mitigated Negative Declaration of Environmental Effect pursuant to the California Environmental Quality Act (CEQA), amend the Land Use Diagram of the Turlock General Plan [GPA 2014-01 (East Tuolumne Master Plan Amendment)] and Zoning Map of the City of Turlock, California, attached to Title 9 of the Turlock Municipal Code [Rezone 2014-01 (East Tuolumne Master Plan Amendment)], and establish Conditions of Approval for Rezone 2014-01 (East Tuolumne Master Plan Amendment).

Council discussion included the planned bioswale, traffic impacts and mitigation measures, and dual use basins.

Mayor Lazar opened the public hearing.

Scott Dorius, representative of the project applicant, spoke in favor of the project and thanked all parties for working together.

Mayor Lazar closed the public hearing.

Action: Motion by Councilmember Bublak, seconded by Councilmember DeHart, Adopting a Mitigated Negative Declaration of Environmental Effect pursuant to the California Environmental Quality Act (CEQA). Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

Resolution No. 2014-187 Amending the Land Use Diagram of the Turlock General Plan [GPA 2014-01 (East Tuolumne Master Plan Amendment)] was introduced by Councilmember Bublak, seconded by Councilmember DeHart, and carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

Motion by Councilmember Nascimento, seconded by Councilmember DeHart, introducing an Ordinance Amending the Zoning Map of the City of Turlock, California, attached to Title 9 of the Turlock Municipal Code [Rezone 2014-01 (East Tuolumne Master Plan Amendment)] and setting the final reading for December 9, 2014. Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

Mayor Lazar advised the Resolution Establishing Conditions of Approval for Rezone 2014-01 (East Tuolumne Master Plan Amendment) would be considered at the December 9, 2014 meeting, following approval of the Ordinance.

8. SCHEDULED MATTERS:

A. Assistant to the City Manager for Economic Development and Housing Services Maryn Pitt presented the staff report on the request to accept the Convention and Visitors Bureau (CVB) 2014 Budget.

Council discussion included the connection between the Chamber of Commerce and CVB in relation to funding.

Chamber of Commerce CEO Sharon Silva provided information regarding the Chamber/CVB connection, history, staffing changes, activities, partnerships and future goals.

Additional discussion included analytical tools used by the CVB to determine website traffic/interests, advertising, and maps.

Mayor Lazar asked for public comment.

Donald Babadalir spoke regarding the need to attract more businesses and encourage more individuals to shop in Turlock, and requested additional information about the allocation of funding for marketing.

Desa Cammack of the CVB spoke regarding marketing strategies including advertising in national sports magazine, the California Visitors Guide, and digital and media marketing efforts.

Chamber of Commerce CEO Sharon Silva spoke regarding future goals, including becoming more technologically savvy, reaching out to travel agencies, and hosting a hospitality conference for both outside users and local hoteliers/restaurateurs to showcase venues in Turlock.

Sergio Alvarado spoke regarding the limited information contained in the agenda and against excessive administrative costs.

Additional Council discussion included hotel tax funding, administrative fees, and the importance of bringing major events to Turlock.

Mayor Lazar confirmed the close of the public hearing.

Additional Council discussion included the need for additional information to be provided with the staff report, recommendations for collaboration opportunities with hoteliers and CSUS regarding maps and providing information to the public, a desire to increase funding and activities, and the importance of capturing hotel occupancy statistics to determine transient occupancy tax numbers/funding which helps to ensure the success of the CVB.

Mayor Lazar closed public comment.

Action: Motion by Councilmember Nascimento, seconded by Councilmember White, Accepting the Convention and Visitors Bureau (CVB) 2014 Budget with the condition that the Chamber of Commerce and Convention and Visitor's Bureau provide an action plan with cost estimates and a proposal to shift their budget in line with the City of Turlock's fiscal year budget, prior to adoption of the City's 2015/16 budget. Motion carried 4/1 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	No	Yes	Yes

B. Development Services Director Mike Pitcock presented the staff report on the request to approve Contract Change Order No. 2 in the amount of $210,255.15 (Fund 217) for City Project No. 12-45, "Monte Vista Avenue Rehabilitation" and appropriate the necessary funding required for the project.

Council and staff discussion included the success of the rubberized asphalt material being used for the project and grant funding received as a result of the use of the material.

Mayor Lazar stepped down from the dais and turned the meeting over to Vice Mayor White.

Vice Mayor White asked for public comment. No one spoke. Vice Mayor White closed public comment.

Mayor Lazar returned to the dais.

Action: Motion by Councilmember Bublak, seconded by Councilmember DeHart, Approving Contract Change Order No. 2 in the amount of $210,255.15 (Fund 217) for City Project No. 12-45, "Monte Vista Avenue Rehabilitation." Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

Resolution No. 2014-188 Appropriating $150,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 12-45, "Monte Vista Avenue Rehabilitation," to complete the necessary funding required for the project was introduced by Councilmember Bublak, seconded by Councilmember DeHart, and carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

Mayor Lazar resumed control of the meeting.

C. Assistant to the City Manager for Economic Development and Housing Services Maryn Pitt Request to approve the Memorandum of Understanding with the Stanislaus Economic Development and Workforce Alliance and the City of Turlock for the purpose of working together to implement a Countywide Economic Development Plan and Marketing Strategy.

Steven Ames of the Stanislaus Economic Development and Workforce Alliance spoke regarding strategies, marketing campaign, and readiness to assist the City of Turlock.

Council discussion included parity of representation with other agencies the Alliance represents.

Mayor Lazar asked for public comment. No one spoke. Mayor Lazar closed public comment.

Action: Motion by Councilmember Bublak, seconded by Councilmember DeHart, Approving the Memorandum of Understanding with the Stanislaus Economic Development and Workforce Alliance and the City of Turlock for the purpose of working together to implement a Countywide Economic Development Plan and Marketing Strategy. Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

D. City Manager Roy Wasden presented the staff report on the request to amend the City of Turlock Fiscal Year 2014/15 General and Non-General Fund Budgets. Mayor Lazar noted a green sheet to this item.

Mayor Lazar asked for public comment. No one spoke. Mayor Lazar closed public comment.

Action: **Resolution No. 2014-189** Amending the City of Turlock Fiscal Year 2014/15 General and Non-General Fund Budgets was introduced by Councilmember Lazar, seconded by Councilmember DeHart, and carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

E. Development Services Director Mike Pitcock presented the staff report on the request to approve a Lien Agreement for deferred payment of Capital Facility Fees between the City of Turlock and S & B Holdings (Owner of 1851 Lander Avenue, Turlock CA 95380).

Council discussion included the types of businesses expected to reside in the development.

Mayor Lazar asked for public comment.

Dave Romano, S & B Holdings representative, spoke in favor of the project, noting the future development of a Hampton Inn and four outparcels which will include an allergy clinic.

Mayor Lazar closed public comment.

Action: Motion by Councilmember DeHart, seconded by Councilmember Nascimento, Approving a Lien Agreement for deferred payment of Capital Facility Fees between the City of Turlock and S & B Holdings (Owner of 1851 Lander Avenue, Turlock CA 95380). Motion carried 5/0 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember White	Mayor Lazar
Yes	Yes	Yes	Yes	Yes

Mayor Lazar invited Milt Trieweiler to speak regarding Turlock Roads. Mr. Trieweiler advised he would defer his comments to a future meeting.

9. COUNCIL ITEMS FOR FUTURE CONSIDERATION: None

10. COUNCIL COMMENTS:

Councilmember Bublak congratulated the CSU Stanislaus Women's Soccer Team and encouraged community support as the team moves on to the "Sweet 16" Soccer Championships.

Councilmember Forrest White thanked the citizens of Turlock for giving him the opportunity to serve and thanked the City of Turlock employees he has worked with during his time on the City Council.

Mayor Lazar commented on the excellent staff he has worked with over the years and acknowledged and thanked Councilmember White for his service to the community.

11. CLOSED SESSION:

City Attorney Phaedra Norton introduced Closed Session Items 11A, 11B, and 11C.

A. Conference with Labor Negotiators, Cal. Gov't Code §54957.6(a)
"Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation."
Agency Negotiators: Roy W. Wasden/Dave Young
Employee Organization: Turlock Associated Police Officers

Action: No reportable action.

B. Conference with Real Property Negotiators, Cal. Gov't Code §54956.8
"Notwithstanding any other provisions of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease."
Property: 147 & 153 South Broadway, Turlock, CA (APN No. 061-016-046-000)
Agency Negotiator: Roy W. Wasden
Negotiating Parties: Bonander Properties, Marilyn R. Bessey, Special Master
Under Negotiation: Price and terms of payment

Action: No reportable action.

C. Conference with Legal Counsel – Anticipated Litigation, Cal. Gov't Code §54956.9(d)(2)
"For the purposes of this section, litigation shall be considered pending when any of the following circumstances exist... A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency."
Potential Cases: (1 case)

Action: No reportable action.

12. ADJOURNMENT:

Motion by Councilmember Dehart, seconded by Councilmember Nascimento, to adjourn at 7:39 p.m. Motion carried unanimously.

RESPECTFULLY SUBMITTED

_____
Kellie E. Weaver
City Clerk

5C

Council Synopsis

December 9, 2014

From: Michael G. Pitcock, PE
Director of Development Services/City Engineer

Prepared by: Nathan Bray, PE
Senior Civil Engineer

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Making the determination that City Project No. 13-62, "Hawkeye Avenue Rehabilitation," is exempt from the provisions of CEQA in accordance with Section 15301

Motion: Awarding bid and approving an agreement in the amount of $1,260,034.50 with Teichert Construction, Inc. of Stockton, California, for City Project No. 13-62, "Hawkeye Avenue Rehabilitation"

Resolution: Appropriating $520,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 13-62, "Hawkeye Avenue Rehabilitation," to complete the necessary funding required for the project

2. DISCUSSION OF ISSUE:

On November 6, 2014 Staff received two bids for City Project No. 13-62, "Hawkeye Avenue Rehabilitation." Teichert Construction of Stockton, California, was the lowest responsible bidder with a bid in the amount of $1,260,034.50.

Bid Summary:

COMPANY NAME	BID AMOUNT
Teichert Construction, Inc.	$1,260,034.50
George Reed, Inc.	$1,309,439.00

This project utilizes federal funds from the RSTP program that the City receives on an annual basis and will rehabilitate Hawkeye Avenue from Dels Lane to Olive Avenue. This project will install a rubberized asphalt overlay, upgrade the access ramps to meet current ADA standards and install missing segments of sidewalk along Hawkeye Avenue.

3. BASIS FOR RECOMMENDATION:

A. Per the Public Contract Code, the City Council must authorize an award of bid to the lowest responsible bidder.

B. Funding for this project includes federal funding ($719,497) and these funds must be used for this project or the City will forfeit all of these funds.

Strategic Plan Initiative: D) MUNICIPAL INFRASTRUCTURE

Goal(s): a-iv Streets/Roadways – Identify avenues to address current deficiencies (general fund, grants, ballots initiatives, assessment district)

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact

Total Amount	Contractor Bid Cost	Construction Contingency	Construction Engineering & Inspection
$1,512,041.40	$1,260,034.50	$126,003.45	$126,003.45

This project is funded by multiple funding sources as identified below.

- RSTP $719,497
- Section 2103 Gas Tax Funds $793,000

When the 2014/15 budget was prepared, Staff estimated using $273,000 in Section 2103 Gas Tax Funds for matching (to RSTP monies) and costs not covered by federal funds. Staff requests the transfer of $520,000 in additional Section 2103 Gas Tax Funds from Fund 217 to complete the funding package for this project. The additional Gas Tax Funds sought after have already been approved for a street rehabilitation project and are available to support this request. With the approval of the transfer, sufficient funds will be appropriated in account number 215-40-420.51210 "Hawkeye Avenue Rehabilitation (#13-62)" for the anticipated project cost of $1,512,041.40.

No General Fund monies will be used for this project.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

In accordance with 23 CFR 771.117 and based on an examination of this project and supporting information, the State of California Department of Transportation

has determined this project does not individually or cumulatively have a significant impact on the environment as defined by NEPA and is excluded from the requirements to prepare an Environmental Assessment or Environmental Impact Statement. This project is categorical exempt under Section 6004 of 23 CFR 771.117(d): activity (d)(1).

This project consists of rehabilitation to an existing roadway that does not involve expansion of use beyond that which currently exists. In accordance with Section 15301 (d) of the California Environmental Quality Act (CEQA), this project has been determined to not have an effect on the environment and is categorical exempt from the provisions in CEQA.

7. ALTERNATIVES:

A. Not make a determination in regards to CEQA. Staff does not recommend this alternative as a CEQA determination needs to be made in order move forward with the project.

B. Reject all bids submitted for this project. Staff does not recommend this alternative because the work needs to be completed and the funding is available specifically for this project.

CITY OF TURLOCK

BIDDER'S SUMMARY

PROJECT TITLE: Hawkeye Avenue Rehabilitation
PROJECT NUMBER: 13-62
BID OPENING: November 6, 2014

ANTICIPATED COUNCIL AWARD DATE: December 9, 2014

				ENGINEER'S EST.		1 Teichert Construction		2 George Reed	
Item No.	Item Description	Unit of Measure	Estimated Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Mobilization & Demobilization	LS	1	$20,000.00	$20,000.00	$60,000.00	$60,000.00	$25,000.00	$25,000.00
2	Construction Project Sign	EA	4	$800.00	$3,200.00	$600.00	$2,400.00	$600.00	$2,400.00
3	Temporary Traffic Control Plan	LS	1	$50,000.00	$50,000.00	$170,000.00	$170,000.00	$98,000.00	$98,000.00
4	Demo & Remove Existing Improvements	LS	1	$30,000.00	$30,000.00	$25,000.00	$25,000.00	$94,000.50	$94,000.50
5	Earthwork	LS	1	$15,500.00	$15,500.00	$17,000.00	$17,000.00	$75,000.00	$75,000.00
6	Adjust Traffic Signal Boxes to Grade	LS	1	$3,500.00	$3,500.00	$1,600.00	$1,600.00	$1,500.00	$1,500.00
7	Adjust Utility Boxes to Grade	LS	1	$1,500.00	$1,500.00	$600.00	$600.00	$3,000.00	$3,000.00
8	Adjust Monument Wells to Grade	LS	1	$4,500.00	$4,500.00	$3,000.00	$3,000.00	$5,000.00	$5,000.00
9	Minor Concrete (Sidewalk)	SF	5,688	$5.00	$28,440.00	$5.00	$28,440.00	$4.00	$22,752.00
10	Minor Concrete (Curb and Gutter)	LF	35	$30.00	$1,050.00	$35.00	$1,225.00	$22.00	$770.00
11	Minor Concrete (Vertical Curb)	LF	322	$40.00	$12,880.00	$45.00	$14,490.00	$18.00	$5,796.00
12	Access Ramp Detail 'A'	EA	9	$2,750.00	$24,750.00	$3,500.00	$31,500.00	$2,200.00	$19,800.00
13	Access Ramp Detail 'C'	EA	17	$3,000.00	$51,000.00	$3,000.00	$51,000.00	$2,100.00	$35,700.00
14	Grinding (2" - 1" Transition)	SY	8,094	$1.75	$14,164.50	$1.45	$11,736.30	$1.40	$11,331.60
15	Grinding (1" Depth)	SY	31,422	$1.75	$54,988.50	$1.50	$47,133.00	$1.40	$43,990.80

16	Grinding (3" Depth)	SY	5,543	$2.25	$12,471.75	$2.90	$16,074.70	$4.00	$22,172.00
17	Grinding (4" Depth)	SY	4,602	$2.50	$11,505.00	$3.60	$16,567.20	$5.00	$23,010.00
18	Remove and Replace Catch Basin Frame	EA	2	$3,000.00	$6,000.00	$1,500.00	$3,000.00	$400.00	$800.00
19	Prep Surface Prior to Paving	LS	1	$7,500.00	$7,500.00	$10,000.00	$10,000.00	$500.00	$500.00
20	HMA	TON	1,440	$60.00	$86,400.00	$135.00	$194,400.00	$100.00	$144,000.00
21	RHMA-G	TON	5,755	$70.00	$402,850.00	$65.00	$374,075.00	$86.00	$494,930.00
22	Install Temporary Striping	LS	1	$5,600.00	$5,600.00	$10,000.00	$10,000.00	$5,000.00	$5,000.00
23	Adjusting Frames and Covers to Grade (St	EA	16	$650.00	$10,400.00	$675.00	$10,800.00	$800.00	$12,800.00
24	Adjusting Frames and Covers to Grade (Se	EA	21	$650.00	$13,650.00	$600.00	$12,600.00	$800.00	$16,800.00
25	Adjusting Frames and Covers to Grade (W	EA	55	$250.00	$13,750.00	$450.00	$24,750.00	$600.00	$33,000.00
26	Traffic Signal Detector System	LS	1	$55,000.00	$55,000.00	$76,000.00	$76,000.00	$75,000.00	$75,000.00
27	Detail 10	LF	11,371	$1.25	$14,213.75	$0.40	$4,548.40	$0.40	$4,548.40
28	Detail 39	LF	6,951	$1.10	$7,646.10	$0.51	$3,545.01	$0.50	$3,475.50
29	Detail 39A	LF	3,109	$1.00	$3,109.00	$0.51	$1,585.59	$0.50	$1,554.50
30	Detail 26	LF	1,111	$0.75	$833.25	$0.10	$111.10	$0.10	$111.10
31	Detail 38	LF	1,345	$1.25	$1,681.25	$1.00	$1,345.00	$1.00	$1,345.00
32	Detail 23	LF	1,057	$1.50	$1,585.50	$1.00	$1,057.00	$1.00	$1,057.00
33	Detail 33	LF	7,958	$1.00	$7,958.00	$0.80	$6,366.40	$0.80	$6,366.40
34	Detail 30	LF	150	$1.00	$150.00	$1.00	$150.00	$1.00	$150.00
35	12" White Thermoplastic Striping	LF	671	$3.25	$2,180.75	$2.65	$1,778.15	$2.60	$1,744.60
36	12" Yellow Thermoplastic Striping	LF	1,496	$3.25	$4,862.00	$2.65	$3,964.40	$2.60	$3,889.60
37	Thermoplastic Pavement Marking	SF	1,245	$3.25	$4,046.25	$4.05	$5,042.25	$4.00	$4,980.00

38	Install Roadside Signs	EA	22	$250.00	$5,500.00	$325.00	$7,150.00	$212.00	$4,664.00
39	Final Cleanup	LS	1	$1,250.00	$1,250.00	$10,000.00	$10,000.00	$3,500.00	$3,500.00
Total =				**$995,615.60**		**$1,260,034.50**		**$1,309,439.00**	

AGREEMENT

FOR PUBLIC IMPROVEMENT

Project No. 13-62

Hawkeye Avenue Rehabilitation
STPL-5165(074)

THIS AGREEMENT is entered into by and between the CITY OF TURLOCK, a Municipal Corporation, hereinafter called "City," and

Teichert Construction
P.O. Box 1118
Stockton, CA 95201-1118

hereinafter called "Contractor" on this 9th day of December, 2014 (hereinafter called the "Agreement").

RECITALS

A City has taken appropriate proceedings to authorize construction of the public work and improvements herein provided and execution of this contract.

B A notice was duly published for bids for the contract for the improvement hereinafter described.

C On December 9, 2014, after notice duly given, the City Council of the City of Turlock awarded the contract for the construction of the improvements hereinafter described to Contractor, which Contractor said Council found to be the lowest responsible bidder for said improvements.

D City and Contractor desire to enter into this Agreement for the construction of said improvements.

IT IS AGREED AS FOLLOWS:

1. Scope Of Work:

Contractor shall perform the work described briefly as follows:

The work consists, in general, of: demolition of existing hardscape improvements, earthwork, construction of minor concrete improvements, RHMA-G overlay, grinding,

installation of thermoplastic striping, traffic signal detectors and furnishing all necessary labor, materials, tools, equipment and incidentals needed to perform the improvements as shown on the contract plans complete and in place. This work shall be completed in accordance with the Standard Specifications, standard Drawings and these Special Provisions.

The aforesaid improvements are further described in the plans, specifications and technical requirements for such project, copies of which are on file in the office of the City Engineer, and which are incorporated herein by reference as if set forth fully herein.

2. **The Contract:**

The complete contract consists of the following documents: This agreement, the notice to contractors, the contractor's accepted proposal, general conditions, special provisions, plans and detailed drawings, addendums, faithful performance bond, labor and materials bond, and any and all supplemental agreements amending, decreasing, or extending the work contemplated or which may be required to complete the work in a substantial and acceptable manner. The current edition of the "City of Turlock Standard Specifications and Drawings" is hereby incorporated as a part of the contract.

All rights and obligations of City and Contractor are set forth and described in the contract.

All of the above named documents are intended to incorporate the terms of the others so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract will hereinafter be referred to as the "contract". In case of any dispute, the decision of the City Engineer shall be final.

3. **Schedule:**

All work shall be performed in accordance with the schedule approved by the City Engineer and under his direction.

4. **Equipment & Performance Of Work:**

Contractor shall furnish all tools, equipment, facilities, labor and materials necessary to perform and complete in good workmanlike manner the work of general construction as called for and in the manner designated in and in strict conformity with the plans and specifications for said work, which said specifications are entitled, "General Conditions and Special Provisions for **City Project No. 13-62, "Hawkeye Avenue Rehabilitation STPL-5165(074)."**

The equipment, apparatus, facilities, labor and material shall be furnished, and said work performed and completed as required in said plans and specifications under the direction and supervision, and subject to the approval of the City Engineer of said City, or City Engineer's designated agent.

5. **Contract Price:**

City shall pay, and Contractor shall accept in full payment for the work above agreed to be done, an amount not to exceed **One Million Two Hundred Sixty Thousand Thirty Four and 50/100ths Dollars ($1,260,034.50).** Said amount shall be paid in installments as hereinafter provided.

6. **Time For Performance:**

The time fixed for the commencement of such work is within ten (10) working days after the "Notice to Proceed" has been issued. The work on this project, including all punch list items, shall be completed on or before the expiration of **Sixty Five (65)** working days beginning on the first day of work or no later than the tenth day after the "Notice to Proceed" has been issued.

7. **Rights Of City To Increase Working Days:**

If such work is not completed within such time, the City Engineer shall have the right to increase the number of working days in the amount the City Engineer may determine will best serve the interests of the City, and if the City Engineer desires to increase said number of working days, the City Engineer shall have the further right to charge the Contractor and deduct from the final payment for the work the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to Contractor, and which accrue during the period of such extension, except that the cost of the final service and preparation of the final estimates shall not be included in such charges; provided, however, that no extension of time for completion of such work shall ever be allowed unless requested by Contractor at least twenty (20) calendar days prior to the time herein fixed for the completion thereof, in writing, with the City Engineer. In this connection, it is understood that the City Engineer shall not consider any such requests if not filed within the time herein prescribed.

8. **Option Of City To Terminate Agreement In Event Of Failure To Complete Work:**

If Contractor shall have refused or failed to prosecute the work, or any severable part thereof, with such diligence as will ensure its completion within the time specified or any extensions thereof, or shall have failed to complete said work within such time if Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of Contractor's creditors, or if a receiver should be appointed in the event of Contractor's insolvency, or if Contractor or any subcontractor should violate any of the provisions of this agreement, the City Engineer or the City Council may give written notice to Contractor and Contractor's sureties of its intention to terminate this agreement, and unless within five (5) days after the serving of such notice such violation shall cease and satisfactory arrangements for the correction thereof made, this agreement may, at the option of City, upon the expiration of said time, cease and terminate.

9. **Liquidated Damages:**

In the event the Contractor, for any reason, shall have failed to perform the work herein specified to the satisfaction of the City Engineer within the time herein required, the City may, in lieu of any other of its rights authorized by paragraph 8 of this agreement, deduct from payments or credits due Contractor after such breach, a sum equal to **One Thousand Nine Hundred** and no/100ths Dollars **($1,900.00)** for each calendar day beyond the date herein provided for the completion of such work. This deduction shall not be considered a penalty but shall be considered as liquidated damages. The aforementioned rate of deduction is an amount agreed to by the Contractor and the City as reasonably representing additional construction engineering costs incurred by the City if the Contractor fails to complete the work within the contract time. However, any deduction assessed as liquidated damages shall not relieve the Contractor from liability for any damages or costs resulting from delays to other contractors on the project or other projects caused by a failure of the assessed Contractor to complete the work within the contract time. Due account shall be taken of any time extensions granted to the Contractor by the City. Permitting the Contractor to continue work beyond the contract completion date shall not operate as a waiver on the part of the City of any of its rights under the contract nor shall it relieve the Contractor from liability for any damages or costs resulting from delays to other contractors on the project or other projects caused by a failure of the assessed Contractor to complete the work within the contract time.

10. **Performance By Sureties:**

In the event of any termination as hereinbefore provided, City shall immediately give written notice thereof to Contractor and Contractor's sureties, and the sureties shall have the right to take over and perform the agreement; provided, however, that if the sureties within five (5) days after giving them said notice of termination, do not give the City written notice of their intention to take over the performance of the agreement and do not commence performance thereof within five (5) days after notice to the City of such election, City may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable for the account, and at the expense of Contractor and the sureties shall be liable to City for any excess cost or damages occasioned City thereby; and, in such event, City may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

11. **Disputes Pertaining To Payment For Work:**

Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this contract, such dispute shall be decided by the City Engineer, and the decision of the latter shall be final and conclusive.

12. Permits, Compliance With Law:

Contractor shall, at Contractor's expense, obtain all necessary permits and licenses for the construction of each improvement, give all necessary notices and pay all fees and taxes required by law.

13. Superintendence By Contractor:

Contractor shall give personal superintendence to the work on said improvement or have a competent foreman or superintendent satisfactory to the City Engineer on the work at all times during progress, with authority to act for him.

14. Inspection By City:

Contractor shall at all times maintain proper facilities and provide safe access for inspection by City to all parts of the work and to the shops wherein the work is in preparation.

15. Extra And/Or Additional Work And Changes:

Should City at any time during the progress of said work request any alterations, deviations, additions, or omissions from said specifications or plans or other contract documents, it shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of said contract price as the case may be, by fair and reasonable valuation. Request for such change must be made in writing signed by the City Engineer, shall be accompanied by plans and specifications for such purpose, shall be accepted in writing by Contractor and Contractor's surety.

In the event work is performed or materials furnished in addition to those set forth in Contractor's bid and the specifications herein, said work and materials shall be paid for at the unit price therein contained. Said amount shall be paid in installments as hereinafter provided.

16. Change Of Contract Price:

The contract price may only be changed by a contract change order. The value of any work covered by a contract change order for an adjustment in the contract price will be determined in the City's sole discretion as follows:

(a) If the work performed is on the basis of unit prices contained in the contract documents, the change order will be determined in accordance with the provisions in Section 4-1.05, "Changes and Extra Work", of the Caltrans Standard Specifications; or

(b) If the work performed is not included on the engineers estimate associated with a unit price, the change order will be by a mutually agreed lump sum; or

(c) If the change order is not determined as described above in either 16 (a) or 16 (b), the change order will be determined on the basis of force account in accordance

with the provisions below.

FORCE ACCOUNT

For work paid by force account, the Engineer compares the City's records to the Contractor's daily force account work report. When the Engineer and the Contractor agree on the contents of the daily force account work reports, the Engineer accepts the report and the City pays for the work. If the records differ, the City pays for the work based only on the information shown on the City's records.

If a subcontractor performs work at force account, accept an additional 2 percent markup to the total cost of that work paid at force account, including markups specified as below, as reimbursement for additional administrative costs.

The markups specified in labor, materials, and equipment includes compensation for all delay costs, overhead costs, and profit.

If an item's unit price is adjusted for work-character changes, the City excludes the Contractors cost of determining the adjustment.

Payment for owner-operated labor and equipment is made at the market-priced invoice submitted.

Labor

Labor payment is full compensation for the cost of labor used in the direct performance of the work plus a 5 percent markup. Force account labor payment consists of:

1. Employer payment to the worker for:
   - 1.1. Basic hourly wage
   - 1.2. Health and welfare
   - 1.3. Pension
   - 1.4. Vacation
   - 1.5. Training
   - 1.6. Other State and federal recognized fringe benefit payments
2. Labor surcharge percentage in *Labor Surcharge and Equipment Rental Rates* current during the work paid at force account for:
   - 2.1. Workers' compensation insurance
   - 2.2. Social security
   - 2.3. Medicare
   - 2.4. Federal unemployment insurance
   - 2.5. State unemployment insurance
   - 2.6. State training taxes
3. Subsistence and travel allowances paid to the workers
4. Employer payment to supervisors, if authorized

The 5 percent markup consists of payment for all overhead costs related to labor but not designated as costs of labor used in the direct performance of the work including:

1. Home office overhead
2. Field office overhead
3. Bond costs
4. Profit
5. Labor liability insurance
6. Other fixed or administrative costs that are not costs of labor used in the direct performance of the work

Materials

Material payment is full compensation for materials the Contractor furnishes and uses in the work. The Engineer determines the cost based on the material purchase price, including delivery charges, except:

1. A 5 percent markup is added
2. Supplier discounts are subtracted whether the Contractor takes them or not
3. If the Engineer believes the material purchase prices are excessive, the City pays the lowest current wholesale price for a similar material quantity
4. If the Contractor procured the materials from a source the Contractor wholly or partially own, the determined cost is based on the lower of the:

4.1. Price paid by the purchaser for similar materials from that source on Contract items

4.2. Current wholesale price for those materials

5. If the Contractor does not submit a material cost record within 30 days of billing, the determined cost is based on the lowest wholesale price:

5.1. During that period

5.2. In the quantities used

Equipment Rental

Equipment rental payment is full compensation for:

1. Rental equipment costs, including moving rental equipment to and from the change order work site using its own power.
2. Transport equipment costs for rental equipment that cannot be transported economically using its own power. No payment is made during transport for the transported equipment.
3. 5 percent markup.

If the Contractor wants to return the equipment to a location other than its original location, the payment to move the equipment must not exceed the cost of returning the equipment to its original location. If the Contractor uses the equipment for work other than work paid by force account, the transportation cost is included in the other work.

Before moving or loading the equipment, obtain authorization for the equipment rental's original location.

The Engineer determines rental costs:

1. Using rates in *Labor Surcharge and Equipment Rental Rates*:
   1.1. By classifying equipment using manufacturer's ratings and manufacturer-approved changes.
   1.2. Current during the work paid by force account.
   1.3. Regardless of equipment ownership; but the City uses the rental document rates or minimum rental cost terms if:
      1.3.1. Rented from equipment business the Contractor does not own.
      1.3.2. The Labor Surcharge and Equipment Rental Rates hourly rate is $10.00 per hour or less.
2. Using rates established by the Engineer for equipment not listed in *Labor Surcharge and Equipment Rental Rates*. The Contractor may submit cost information that helps the Engineer establish the rental rate; but the City uses the rental document rates or minimum rental cost terms if:
   2.1. Rented from equipment business the Contractor does not own.
   2.2. The Engineer establishes a rate of $10.00 per hour or less.
3. Using rates for transport equipment not exceeding the hourly rates charged by established haulers.

Equipment rental rates include the cost of:

1. Fuel
2. Oil
3. Lubrication
4. Supplies
5. Small tools that are not consumed by use
6. Necessary attachments
7. Repairs and maintenance
8. Depreciation
9. Storage
10. Insurance
11. Incidentals

The City pays for small tools consumed by use. The Engineer determines payment for small tools consumed by use based on Contractor-submitted invoices.

The Engineer may authorize rates in excess of those in the *Labor Surcharge and Equipment Rental Rates* if:

1. The Contractor submits a request to use rented equipment
2. Equipment is not available from the Contractors normal sources or from one of the Contractors subcontractors
3. Rented equipment is from an independent rental company
4. Proposed equipment rental rate is reasonable
5. The Engineer authorizes the equipment source and the rental rate before the Contractor uses the equipment

Equipment on the Job Site

For equipment on the job site at the time required to perform work paid by force account, the time paid is the time:

1. To move the equipment to the location of work paid by force account plus an equal amount of time to move the equipment to another location on the job site when the work paid by force account is completed
2. To load and unload equipment
3. Equipment is operated to perform work paid by force account and:
   3.1. Hourly rates are paid in 1/2-hour increments
   3.2. Daily rates are paid in 1/2-day increments

Equipment Not On the Job Site Required for Original-Contract Work

For equipment not on the job site at the time required to perform work paid by force account and required for original-Contract work, the time paid is the time the equipment is operated to perform work paid by force account and the time to move the equipment to a location on the job site when the work paid by force account is completed.

The minimum total time paid is:

1. 1 day if daily rates are paid
2. 8 hours if hourly rates are paid

If daily rates are recorded, equipment:

1. Idled is paid as 1/2 day
2. Operated 4 hours or less is paid as 1/2 day
3. Operated 4 hours or more is paid as 1 day

If the minimum total time exceeds 8 hours and if hourly rates are listed, the City rounds up hours operated to the nearest 1/2-hour increment and pays based on the hours shown the following table. The table does not apply when equipment is not operated due to breakdowns, in which case rental hours are the hours the equipment was operated.

Equipment Rental Hours

Hours operated	Hours paid
0.0	4.00
0.5	4.25
1.0	4.50
1.5	4.75
2.0	5.00
2.5	5.25
3.0	5.50
3.5	5.75
4.0	6.00
4.5	6.25
5.0	6.50
5.5	6.75
6.0	7.00
6.5	7.25

7.0	7.5
7.5	7.75
≥8.0	hours used

Equipment Not On the Job Site Not Required for Original-Contract Work
For equipment not on the job site at the time required to perform work paid by force account and not required for original-Contract work, the time paid is the time:

1. To move the equipment to the location of work paid by force account plus an equal amount of time to return the equipment to its source when the work paid by force account is completed
2. To load and unload equipment
3. Equipment is operated to perform work paid by force account

Non-Owner-Operated Dump Truck Rental
Submit the rental rate for non-owner-operated dump truck rental. The Engineer determines the payment rate. Payment for non-owner-operated dump truck rental is for the cost of renting a dump truck, including its driver. For the purpose of markup payment only, the non-owner-operated dump truck is rental equipment and the owner is a subcontractor.

The above markups shall constitute full compensation for all home office overhead, field office overhead, bond costs, profit, labor liability insurance, and other fixed or administrative costs that are not costs specifically designated as cost or equipment rental as stated above. The total payment made as provided above shall be deemed to be the actual cost of the work and shall constitute full compensation therefor.

When extra work to be paid for on a force account basis is performed by a subcontractor, approved in conformance with the provisions in Section 5-1.13, "Subcontracting," an additional markup of 2 percent will be added to the total cost of that extra work including all markups specified in this Section. The additional 2 percent markup shall reimburse the Contractor for additional administrative costs, and no other additional payment will be made by reason of performance of the extra work by a subcontractor.

17. Change Of Contract Time:
The contract time may only be changed by a contract change order. The value of any work covered by a contract change order for an adjustment in the contract time will be determined as follows:

(a) Additional working days will be awarded where the amount of time is mutually agreed upon by Contractor and Engineer; or

(b) Additional working days will be awarded where Contractor is prevented from completing any part of the work identified on the critical path and:

a. where the delay is caused by acts of public enemy, fire, floods, tsunamis, earthquakes, epidemics, quarantine restrictions, strikes, labor disputes, shortage of materials and freight embargos, provided that Contractor shall notify Engineer in writing of the causes of delay within 15 days from the beginning of that delay; or

b. where the delay is caused by actions beyond the control of Contractor; or

c. where the delay is caused by actions or failure to act by Engineer.

Contractor shall not be entitled to an adjustment in contract time for delays within the control of Contractor. Delays resulting from and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

18. Inspection And Testing Of Materials:

Contractor shall notify City a sufficient time in advance of the manufacture of production materials to be supplied by Contractor under this contract in order that City may arrange for mill or factory inspection and testing of same.

Any materials shipped by Contractor from factory prior to having satisfactorily passed such testing and inspection by City's representative or prior to the receipt of notice from such representative that such testing and inspection will not be required shall not be incorporated on the job of said improvement. Contractor shall also furnish City, in triplicate, certified copies of all factory and mill test reports upon request.

19. Permits And Care Of The Work:

Contractor has examined the site of the work and is familiar with its topography and condition, location of property lines, easements, building lines, and other physical factors and limitations affecting the performance of this agreement. Contractor, at Contractor's expense, shall obtain any permission necessary for any operations conducted off the property owned or controlled by City. Contractor shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance.

20. Other Contracts:

City may award other contracts for additional work, and Contractor shall fully cooperate with such other Contractors and carefully fit Contractor's own work to that provided under other contracts as may be directed by the City Engineer. Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor.

21. **Payments To Contractor:**

Payments are to be made to the Contractor in accordance with the provisions of Section 9 of the General Conditions of said specifications in legally executed and regularly issued warrants of the city, drawn on the appropriate fund or funds as required by law and order of the City Council thereof. The Contractor shall be administered a progress payment approximately every 30 calendar days from the time work begins according to the payment schedule furnished by the City Engineer at the time work begins.

Pursuant to Division 2, Part 5, Section 22300, *et seq.*, of the Public Contracts Code, the Contractor may request the right to substitute securities for any moneys withheld by the City of Turlock to ensure the performance required of the Contractor under the contract, or that the City of Turlock make payment of retentions earned directly into an escrow account established at the expense of the Contractor.

22. **Contract Security:**

Concurrently with the execution hereof, Contractor shall furnish on the forms provided (1) a surety bond in an amount equal to at least one hundred percent (100%) of the contract price as security for the faithful performance of this contract; and (2) a separate surety bond in an amount equal to at least one hundred percent (100%) of the contract price as security for the payment of all persons performing labor and furnishing materials in connection with this contract. Sureties on each of said bonds thereof shall be satisfactory to the City.

23. **Hold-Harmless Agreement And Contractor's Insurance:**

Contractor shall indemnify, defend, and hold harmless City and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of City.

24. **Contractor's Insurance:**

Contractor shall not commence work under this Agreement until Contractor has obtained City's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with additional insured endorsements (form CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), to be approved by the City of Turlock.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Insurance Service Office Form CP 00 20 with Causes of Loss – Special Form CP 10 30 covering Builder's Risk (Course of Construction) insurance covering all risks of loss less policy exclusions.

(5) Surety bonds as described below.

(6) Errors and Omissions/Professional Liability Insurance (if *Design/Build*).

(b) Minimum Limits of Insurance: Contractor shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: $1,000,000 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: As statutorily required by the State of California.

(4) Employer's Liability: $1,000,000 per accident for bodily injury or disease.

(5) Builder's Risk: Completed value of the project with no coinsurance penalty provisions.

(6) Errors and Omissions/Professional Liability: $1,000,000 per claim as needed for design/build.

(c) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) Contractor shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(d) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:

(1) City, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing and completed operations coverage.

(2) For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects City and any insurance or self-insurance maintained by City shall be excess of Contractor's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to City under this Agreement, the insurer, broker/producer, or Contractor shall provide City with thirty (30) days' prior written notice of such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Builder's Risk (Course of Construction) Insurance: City shall be named as loss payee.

(f) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII or with an insurer to which the City has provided prior approval.

(g) Verification of Coverage: Consultant shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(h) Waiver of Subrogation: With the exception of professional liability, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of City for all work performed by Contractor, its agents, employees, independent contractors and subcontractors. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(i) Subcontractors: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(j) Surety Bonds: Contractor shall provide a Performance Bond and a Payment Bond.

25. Proof Of Carriage Of Insurance:

Contractor shall furnish City concurrently with the execution hereof, satisfactory proof of carriage of the insurance required, and that Contractor shall give City at least sixty (60) days prior notice of the cancellation of any policy during the effective period of this contract.

26. Wages & Hours Of Employment:

In the performance of this contract, eight (8) hours shall be the maximum hours of labor on any calendar day, and the minimum wages of compensation of persons performing labor in the execution of this agreement shall be the current prevailing scale of wages determined by the Director of the Department of Industrial Relations for the community.

The Contractor shall forfeit as penalty to the City, Twenty-five and no/100ths Dollars ($25.00) to be paid to the City of Turlock for each workman employed in the execution of this agreement by him or by any subcontractor, for each calendar day during which any workman is required or permitted to labor more than eight (8) hours, in violation of provisions of Article 3, Chapter 1, Part 7, a Division 2, of the Labor Code of the State of California, and all amendments thereto.

27. Emergency - Additional Time For Performance - Procurement Of Materials:
If, because of war or other declared national emergency, the Federal or State Government restricts, regulates, or controls the procurement and allocation of labor or materials, or both, and if solely because of said restrictions, regulations or controls, Contractor is through no fault of the Contractor, unable to perform this agreement, or the work is thereby suspended or delayed, any of the following steps may be taken.

(a) City may, pursuant to resolution of the Council, grant Contractor additional time for the performance of this agreement, sufficient to compensate in time, for delay or suspension.

To qualify for such extension in time, Contractor within ten (10) days of Contractor's discovering such inability to perform, shall notify City Engineer in writing thereof, and give specific reasons therefore; City Engineer shall thereupon have sixty (60) days within which to procure such needed materials or labor as is specified in this agreement, or permit substitution, or provide for changes in the work in accordance with other provisions of this agreement.

Substituted materials, or changes in the work, or both, shall be ordered in writing by City Engineer, and the concurrence of the Council shall not be necessary. All reasonable expenses of such procurement incurred by the City Engineer shall be defrayed by the Contractor; or

(b) If such materials or labor cannot be procured through legitimate channels within sixty (60) days after the filing of the aforesaid notice, either party may, upon thirty (30) days' written notice to the other, terminate this agreement. In such event, Contractor shall be compensated for all work executed upon a unit basis in proportion to the amount of the work completed, or upon a cost-plus-ten-percent (10%) basis, whichever is the lesser. Materials on the ground, in process of fabrication or in route upon the date of notice of termination specially ordered for the project and which cannot be utilized by Contractor, shall be compensated for by City at cost, including freight, provided the Contractor shall take all steps possible to minimize this obligation; or

(c) City Council, by resolution, may suspend this agreement until the cause of inability to perform is removed but for a period of not to exceed sixty (60) days.

If this agreement is not canceled, and the inability of Contractor to perform continues without fault on Contractor's part, beyond the time during which the agreement may have been suspended, as herein above provided, City Council may further suspend this agreement, or either party hereto may, without incurring any liability, elect to declare this agreement terminated upon the ground of impossibility

of performance. In the event City declares this agreement terminated, such declaration shall be authorized by the City Council by resolution, and Contractor shall be notified in writing thereof within five (5) days after the adoption of such resolution. Upon such termination, Contractor shall be entitled to proportionate compensation at the agreement rate for such portion of the agreement as may have been performed, or

(d) City may terminate this agreement, in which case Contractor shall be entitled to proportionate compensation at the agreed rate for such portion of the agreement as may have been performed. Such termination shall be authorized by resolution of the Council. Notice thereof shall be forthwith given in writing to Contractor, and this agreement shall be terminated upon receipt by Contractor of such notice.

In the event of the termination provided in this sub-paragraph (d), none of the covenants, conditions or provisions hereof shall apply to the work not performed, and City shall be liable to Contractor for the proportionate compensation last herein mentioned.

28. Provisions Cumulative:

The provisions of this agreement are cumulative, and in addition to and not in limitation of, any other rights or remedies available to City.

29. Taxes:

Contractor shall cooperate with City to the full extent possible to maximize the local allocation of California sales and use tax to the City. Such cooperation shall include but not be limited to:

(a) Use Tax Direct Payment Permits. Contractor shall apply for, obtain and utilize, to the maximum extent reasonable, a California Use Tax Direct Payment Permit.

(b) Purchases of $500,000 or More. Contractor shall require vendors and suppliers located outside California from whom Contractor makes purchase of $500,000 or more to allocate the use tax to the City.

Additional information regarding use tax and the Permit can be found in the State of California Board of Equalization, Sales and Use Tax Regulations, Regulation 1699.6, Use Tax Direct Payment Permits, or on the web site for the Board of Equalization at http://www.boe.ca.gov/sutax/sutprograms.htm

30. Notices:

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

City of Turlock
City Engineer
156 S. Broadway, Suite 150
Turlock, CA 95380-5454

Notices required to be given to Contractor shall be addressed as follows:

_____
_____
_____

Notices required to be given sureties of Contractor shall be addressed as follows:

_____
_____
_____
_____

31. Interpretation:
As used herein, any gender includes each other gender, the singular includes the plural and vice versa.

32. Antitrust Claims:
The Contractor or subcontractor offers and agrees to assign to the City all rights, title and interest to any causes of action under Section Four of the Clayton Act and the Cartwright Act concerning antitrust claims.

33. Use of City Project Number:
The Contractor or subcontractor agrees to use the aforementioned City project number on all maps, drawings, submittals, billing, and written correspondence that involve City staff or contracted consultants. Nothing in this section shall preclude the Contractor or subcontractor from using their own project numbers for their own internal use.

34. Required Contract Provisions For Federal-Aid Construction Contracts
Form FHWA-1273 is included in this Agreement in accordance with federal-aid requirements. The full text of this form is included in this section, unmodified and in its entirety.

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of

discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs,

i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral

practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified

as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or

program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.
Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.
The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be

necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of

the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all

lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants.

Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

IN WITNESS WHEREOF, three identical counterparts of this agreement, consisting of a total of 50 pages, each of which counterparts shall for all purposes be deemed an original of said agreement, have been duly executed by the parties hereinabove named, on the day and year first herein above written.

(Attach Contractor's Seal Here)

CONTRACTOR

_____

_____

Print Name

Address: _____

_____

_____

Phone: _____

Date: _____

Federal Tax ID or
Social Security Number: _____

CITY OF TURLOCK, a municipal corporation

_____

Roy W. Wasden, City Manager

APPROVED AS TO SUFFICIENCY:

_____

Michael G. Pitcock, P.E., Director of
Development Services / City Engineer

APPROVED AS TO FORM:

_____

Phaedra A. Norton, City Attorney

ATTEST:

_____

Kellie E. Weaver, City Clerk

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as sole Surety, in the State of California, and held and firmly bound unto the City of Turlock, a municipal corporation of the State of California, in the sum of _____Dollars ($_____) for the payment thereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that: Whereas the above bounden Principal has entered, or is about to enter, into a certain contract with the City of Turlock, entitled "Agreement for **City Project No. 13-62, "Hawkeye Avenue Rehabilitation STPL-5165(074),"** a true and correct copy of which agreement is presently on file in the office of the City Clerk of the City of Turlock, which said agreement is hereby referred to and made a part hereof.

NOW, THEREFORE, if the above bounden Principal shall well and truly perform the work contracted to be performed under said contract, then this obligation shall be void, otherwise to remain in full force and effect.

No prepayment or delay in payment and no changes, extension, addition or alteration of any provision of said contract or in any plans and specifications referred to herein, and no forbearance on the part of the City shall operate to release the Surety from liability on this Bond, and consent to make such alterations without further notice to or consent by the Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the Civil Code of the State of California.

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Dated this _____day of _____, 20__.

_____
(Principal)
By: X_____

By: X_____

_____
(Surety)
By: X_____

By: X_____

Address:_____

_____
(Zip)
Phone:_____

(Attach Acknowledgment
Both Principal's and Surety's
Attorney In Fact)

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BOND FOR LABOR AND MATERIAL

KNOW ALL BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____ and authorized to execute bonds and undertakings as sole Surety, in the State of California, as Surety, are held and firmly bound unto any and all material, men, persons, companies or corporations furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed under the contract hereinafter mentioned, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to said work to be done, and all persons who perform work or labor upon the same, and all persons who supply both work and materials, and whose claim has not been paid by the Contractor, company, or corporations in the just and full sum of_____ Dollars ($_____) for payment thereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that: Whereas the above bounden Principal has entered, or is about to enter, into a certain contract with the City of Turlock, entitled "Agreement for **City Project No. 13-62, "Hawkeye Avenue Rehabilitation STPL-5165(074),"** a true and correct copy of which agreement is presently on file in the office of the City Clerk of the City of Turlock, which said agreement is hereby referred to and made a part hereof.

NOW, THEREFORE, if the above bounden Principal or said Principal's subcontractors, fail to pay for any materials, provisions provender or other supplies, or teams, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, the Surety will pay for the same, in an amount not exceeding the sum specified in this bond, provided that any and all claims hereunder shall be filled and proceedings had in connection therewith as required by the provisions of Sections 5100, et. seq., inclusive, of the Public Contracts Code of the State of California, and any amendments thereof; provided, also, that in case suit is brought upon this bond, a reasonable attorney's fee shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be fixed as costs in said suit, and to be included in the judgment therein rendered.

No prepayment or delay in payment and no change, extension, addition, or alteration of any provision of said contract or in said plans and specifications agreed to between the Principal and the City, and no forbearance on the part of the City, shall operate to release the Surety from liability on this bond, and consent to make such alterations without further notice to or consent by the Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the Civil Code of the State of California.

Dated this _____ day of _____, 20__.

_____

(Principal)

By: X_____

By: X_____

_____

(Surety)

By: X_____

By: X_____

Address:_____

_____

(Zip)

Phone:_____

(Attach Acknowledgment
Both Principal's and
Surety's Attorney In Fact)

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BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF APPROPRIATING $520,000 TO ACCOUNT NUMBER 215-40.420.51210 "FEDERAL STREET PROJECTS" TO BE FUNDED VIA A TRANSFER OF SECTION 2103 GAS TAX MONIES FROM FUND 217 "GAS TAX FUND" FOR CITY PROJECT NO. 13-62, "HAWKEYE AVENUE REHABILITATION," TO COMPLETE THE NECESSARY FUNDING REQUIRED FOR THE PROJECT	}	**RESOLUTION NO. 2014-**

WHEREAS, the City secured federal RSTP funds for the rehabilitation of Hawkeye Avenue from Dels Lane to Olive Avenue; and

WHEREAS, per the federal program guidelines, the City must provide a minimum funding match for the federal monies; and

WHEREAS, the City must utilize the federal funds for this specific project as identified through the NEPA process; and

WHEREAS, the Gas Tax Fund is specifically for the use of roadway rehabilitation; and

WHEREAS, these Gas Tax monies are available for use.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby appropriate $520,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 13-62, "Hawkeye Avenue Rehabilitation," to complete the necessary funding required for the project.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____

Kellie Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

5D

Council Synopsis

December 9, 2014

From: Michael G. Pitcock, PE
Director of Development Services/City Engineer

Prepared by: Nathan Bray, PE
Senior Civil Engineer

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Making the determination that City Project No. 13-63, "Geer Road Rehabilitation," is exempt from the provisions of CEQA in accordance with Section 15301

Motion: Awarding bid and approving an agreement in the amount of $1,036,478 with Teichert Construction, Inc. of Stockton, California, for City Project No. 13-63, "Geer Road Rehabilitation"

Resolution: Appropriating $205,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 13-63, "Geer Road Rehabilitation," to complete the necessary funding required for the project

2. DISCUSSION OF ISSUE:

On November 6, 2014 Staff received two bids for City Project No. 13-63, "Geer Road Rehabilitation." Teichert Construction of Stockton, California, was the lowest responsible bidder with a bid in the amount of $1,036,478.00.

Bid Summary:

COMPANY NAME	BID AMOUNT
Teichert Construction, Inc.	$1,036,478.00
George Reed, Inc.	$1,115,503.00

This project utilizes federal funds from the RSTP program that the City receives on an annual basis and will rehabilitate Geer Road from Monte Vista Avenue to Taylor Road. This project will install a rubberized asphalt overlay and upgrade the access ramps to meet current ADA standards.

3. BASIS FOR RECOMMENDATION:

A. Per the Public Contract Code, the City Council must authorize an award of bid to the lowest responsible bidder.

B. Funding for this project includes federal funding ($917,497) and these funds must be used for this project or the City will forfeit all of these funds.

Strategic Plan Initiative: D) MUNICIPAL INFRASTRUCTURE

Goal(s): a-iv Streets/Roadways – Identify avenues to address current deficiencies (general fund, grants, ballots initiatives, assessment district)

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact

Total Amount	Contractor Bid Cost	Construction Contingency	Construction Engineering & Inspection
$1,243,773.60	$1,036,478.00	$103,647.80	$103,647.80

This project is funded by multiple funding sources as identified below.

- RSTP $917,497
- Section 2103 Gas Tax Funds $328,000

When the 2014/15 budget was prepared, Staff estimated using $123,000 in Section 2103 Gas Tax Funds for matching (to RSTP monies) and costs not covered by federal funds. Staff requests the transfer of $205,000 in additional Section 2103 Gas Tax Funds from Fund 217 to complete the funding package for this project. The additional Gas Tax Funds sought after have already been approved for a street rehabilitation project and are available to support this request. With the approval of the transfer, sufficient funds will be appropriated in account number 215-40-420.51210 "Geer Road Rehabilitation (#13-63)" for the anticipated project cost of $1,243,773.60.

No General Fund monies will be used for this project.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

In accordance with 23 CFR 771.117 and based on an examination of this project and supporting information, the State of California Department of Transportation

has determined this project does not individually or cumulatively have a significant impact on the environment as defined by NEPA and is excluded from the requirements to prepare an Environmental Assessment or Environmental Impact Statement. This project is categorical exempt under Section 6004 of 23 CFR 771.117(d): activity (d)(1).

This project consists of rehabilitation to an existing roadway that does not involve expansion of use beyond that which currently exists. In accordance with Section 15301 (d) of the California Environmental Quality Act (CEQA), this project has been determined to not have an effect on the environment and is categorical exempt from the provisions in CEQA.

7. ALTERNATIVES:

A. Not make a determination in regards to CEQA. Staff does not recommend this alternative as a CEQA determination needs to be made in order move forward with the project.

B. Reject all bids submitted for this project. Staff does not recommend this alternative because the work needs to be completed and the funding is available specifically for this project.

CITY OF TURLOCK
BIDDER'S SUMMARY

PROJECT TITLE: Geer Road Rehabilitation
PROJECT NUMBER: 13-63
BID OPENING: November 6, 2014

ANTICIPATED COUNCIL AWARD DATE: December 9, 2014

						1		2	
				ENGINEER'S EST.		Teichert Construction		George Reed, Inc.	
Item No.	Item Description	Unit of Measure	Estimated Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Mobilization & Demobilization	LS	1	$20,000.00	$20,000.00	$50,000.00	$50,000.00	$25,000.00	$25,000.00
2	Construction Project Sign	EA	4	$800.00	$3,200.00	$600.00	$2,400.00	$600.00	$2,400.00
3	Temporary Traffic Control Plan	LS	1	$35,000.00	$35,000.00	$220,500.00	$220,500.00	$112,500.00	$112,500.00
4	Demo & Remove Existing Improvements	LS	1	$35,000.00	$35,000.00	$25,000.00	$25,000.00	$90,000.50	$90,000.50
5	Earthwork	LS	1	$25,000.00	$25,000.00	$20,000.00	$20,000.00	$75,000.00	$75,000.00
6	Adjust Utility Boxes to Grade	LS	1	$2,000.00	$2,000.00	$1,000.00	$1,000.00	$3,000.00	$3,000.00
7	Minor Concrete (Sidewalk)	SF	50	$5.00	$250.00	$6.00	$300.00	$9.00	$450.00
8	Minor Concrete (Curb and Gutter)	LF	10	$50.00	$500.00	$52.00	$520.00	$45.00	$450.00
9	Minor Concrete (Vertical Curb)	LF	882	$30.00	$26,460.00	$30.00	$26,460.00	$18.00	$15,876.00
10	Access Ramp	EA	13	$4,500.00	$58,500.00	$3,100.00	$40,300.00	$3,000.00	$39,000.00
11	Access Ramp (Modified)	EA	4	$1,750.00	$7,000.00	$1,500.00	$6,000.00	$550.00	$2,200.00
12	Grinding (2" - 1" Transition)	SY	8,152	$1.25	$10,190.00	$2.00	$16,304.00	$1.60	$13,043.20
13	Grinding (1" Depth)	SY	27,678	$1.15	$31,829.70	$1.35	$37,365.30	$1.60	$44,284.80
14	Grinding (2" Depth)	SY	5,594	$1.50	$8,391.00	$0.80	$4,475.20	$1.75	$9,789.50

15	Prep Surface Prior to Paving	LS	1	$7,500.00	$7,500.00	$10,000.00	$10,000.00	$500.00	$500.00
16	Aggregate Base	CY	42	$60.00	$2,520.00	$120.00	$5,040.00	$150.00	$6,300.00
17	HMA	TON	95	$150.00	$14,250.00	$350.00	$33,250.00	$300.00	$28,500.00
18	RHMA-G	TON	4,800	$85.00	$408,000.00	$65.00	$312,000.00	$86.50	$415,200.00
19	Adjusting Frames and Covers to Grade (Storm)	EA	7	$650.00	$4,550.00	$650.00	$4,550.00	$800.00	$5,600.00
20	Adjusting Frames and Covers to Grade (Sewer)	EA	9	$650.00	$5,850.00	$650.00	$5,850.00	$800.00	$7,200.00
21	Adjusting Frames and Covers to Grade (Water)	EA	33	$250.00	$8,250.00	$350.00	$11,550.00	$600.00	$19,800.00
22	Adjust Monument Wells to Grade	LS	1	$7,000.00	$7,000.00	$3,000.00	$3,000.00	$5,000.00	$5,000.00
23	Microsurface	SY	8,605	$4.00	$34,420.00	$2.80	$24,094.00	$4.00	$34,420.00
24	Traffic Signal Detector System	LS	1	$125,000.00	$125,000.00	$86,000.00	$86,000.00	$84,500.00	$84,500.00
25	Install Temporary Striping	LS	1	$4,500.00	$4,500.00	$10,000.00	$10,000.00	$5,000.00	$5,000.00
26	Detail 10	LF	8,500	$1.00	$8,500.00	$0.50	$4,250.00	$0.40	$3,400.00
27	Detail 26	LF	1,400	$1.00	$1,400.00	$0.15	$210.00	$0.10	$140.00
28	Detail 27B	LF	575	$1.25	$718.75	$0.50	$287.50	$0.40	$230.00
29	Detail 33	LF	2,100	$1.25	$2,625.00	$0.95	$1,995.00	$0.80	$1,680.00
30	Detail 38	LF	1,800	$1.00	$1,800.00	$1.20	$2,160.00	$1.00	$1,800.00
31	Detail 38C	LF	500	$1.00	$500.00	$1.20	$600.00	$1.00	$500.00
32	Detail 39	LF	6,500	$1.00	$6,500.00	$0.60	$3,900.00	$0.50	$3,250.00
33	Detail 39A	LF	1,000	$1.00	$1,000.00	$0.60	$600.00	$0.50	$500.00
34	12" White Thermoplastic Striping	LF	1,600	$3.00	$4,800.00	$3.10	$4,960.00	$2.60	$4,160.00
35	Thermoplastic Pavement Marking	SF	950	$3.00	$2,850.00	$5.90	$5,605.00	$5.00	$4,750.00

36	Install Roadside Signs	EA	15	$200.00	$3,000.00	$325.00	$4,875.00	$235.00	$3,525.00
37	Median Pass Thru Access Ramp	LS	1	$13,200.00	$13,200.00	$6,000.00	$6,000.00	$7,500.00	$7,500.00
38	Pedestrian Access Ramp	LS	1	$1,250.00	$1,250.00	$2,500.00	$2,500.00	$1,200.00	$1,200.00
39	Irrigation System	LS	1	$5,500.00	$5,500.00	$11,200.00	$11,200.00	$11,000.00	$11,000.00
40	Landscaping	LS	1	$4,500.00	$4,500.00	$19,200.00	$19,200.00	$19,000.00	$19,000.00
41	Final Cleanup	LS	1	$1,250.00	$1,250.00	$10,000.00	$10,000.00	$3,500.00	$3,500.00
42	Minor Concrete (Median Flatwork)	SF	622	$5.00	$3,110.00	$3.50	$2,177.00	$7.00	$4,354.00
Total =				**$947,664.45**		**$1,036,478.00**		**$1,115,503.00**	

AGREEMENT

FOR PUBLIC IMPROVEMENT

Project No. 13-63

Geer Road Rehabilitation
STPL-5165(076)

THIS AGREEMENT is entered into by and between the CITY OF TURLOCK, a Municipal Corporation, hereinafter called "City," and

Teichert Construction
P.O. Box 1118
Stockton, CA 95201-1118

hereinafter called "Contractor" on this 9th day of December, 2014 (hereinafter called the "Agreement").

RECITALS

A City has taken appropriate proceedings to authorize construction of the public work and improvements herein provided and execution of this contract.

B A notice was duly published for bids for the contract for the improvement hereinafter described.

C On December 9, 2014, after notice duly given, the City Council of the City of Turlock awarded the contract for the construction of the improvements hereinafter described to Contractor, which Contractor said Council found to be the lowest responsible bidder for said improvements.

D City and Contractor desire to enter into this Agreement for the construction of said improvements.

IT IS AGREED AS FOLLOWS:

1. Scope Of Work:

Contractor shall perform the work described briefly as follows:

The work consists, in general, of: demolition of existing hardscape improvements, earthwork, construction of minor concrete improvements, RHMA-G overlay, grinding, installation of landscape irrigation equipment, landscaping, installation of thermoplastic

striping, traffic signal detectors and furnishing all necessary labor, materials, tools, equipment and incidentals needed to perform the improvements as shown on the contract plans complete and in place. This work shall be completed in accordance with the Standard Specifications, standard Drawings and these Special Provisions.

The aforesaid improvements are further described in the plans, specifications and technical requirements for such project, copies of which are on file in the office of the City Engineer, and which are incorporated herein by reference as if set forth fully herein.

2. **The Contract:**

The complete contract consists of the following documents: This agreement, the notice to contractors, the contractor's accepted proposal, general conditions, special provisions, plans and detailed drawings, addendums, faithful performance bond, labor and materials bond, and any and all supplemental agreements amending, decreasing, or extending the work contemplated or which may be required to complete the work in a substantial and acceptable manner. The current edition of the "City of Turlock Standard Specifications and Drawings" is hereby incorporated as a part of the contract.

All rights and obligations of City and Contractor are set forth and described in the contract.

All of the above named documents are intended to incorporate the terms of the others so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract will hereinafter be referred to as the "contract". In case of any dispute, the decision of the City Engineer shall be final.

3. **Schedule:**

All work shall be performed in accordance with the schedule approved by the City Engineer and under his direction.

4. **Equipment & Performance Of Work:**

Contractor shall furnish all tools, equipment, facilities, labor and materials necessary to perform and complete in good workmanlike manner the work of general construction as called for and in the manner designated in and in strict conformity with the plans and specifications for said work, which said specifications are entitled, "General Conditions and Special Provisions for **City Project No. 13-63, "Geer Road Rehabilitation STPL-5165(076)."**

The equipment, apparatus, facilities, labor and material shall be furnished, and said work performed and completed as required in said plans and specifications under the direction and supervision, and subject to the approval of the City Engineer of said City, or City Engineer's designated agent.

5. **Contract Price:**

City shall pay, and Contractor shall accept in full payment for the work above agreed to be done, an amount not to exceed **One Million Thirty Six Thousand Four Hundred Seventy Eight and NO/100ths Dollars ($1,036,478.00).** Said amount shall be paid in installments as hereinafter provided.

6. **Time For Performance:**

The time fixed for the commencement of such work is within ten (10) working days after the "Notice to Proceed" has been issued. The work on this project, including all punch list items, shall be completed on or before the expiration of **Sixty (60)** working days beginning on the first day of work or no later than the tenth day after the "Notice to Proceed" has been issued. The anticipated NTP date is April 15th, 2015.

7. **Rights Of City To Increase Working Days:**

If such work is not completed within such time, the City Engineer shall have the right to increase the number of working days in the amount the City Engineer may determine will best serve the interests of the City, and if the City Engineer desires to increase said number of working days, the City Engineer shall have the further right to charge the Contractor and deduct from the final payment for the work the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to Contractor, and which accrue during the period of such extension, except that the cost of the final service and preparation of the final estimates shall not be included in such charges; provided, however, that no extension of time for completion of such work shall ever be allowed unless requested by Contractor at least twenty (20) calendar days prior to the time herein fixed for the completion thereof, in writing, with the City Engineer. In this connection, it is understood that the City Engineer shall not consider any such requests if not filed within the time herein prescribed.

8. **Option Of City To Terminate Agreement In Event Of Failure To Complete Work:**

If Contractor shall have refused or failed to prosecute the work, or any severable part thereof, with such diligence as will ensure its completion within the time specified or any extensions thereof, or shall have failed to complete said work within such time if Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of Contractor's creditors, or if a receiver should be appointed in the event of Contractor's insolvency, or if Contractor or any subcontractor should violate any of the provisions of this agreement, the City Engineer or the City Council may give written notice to Contractor and Contractor's sureties of its intention to terminate this agreement, and unless within five (5) days after the serving of such notice such violation shall cease and satisfactory arrangements for the correction thereof made, this agreement may, at the option of City, upon the expiration of said time, cease and terminate.

9. **Liquidated Damages:**

In the event the Contractor, for any reason, shall have failed to perform the work herein specified to the satisfaction of the City Engineer within the time herein required, the City may, in lieu of any other of its rights authorized by paragraph 8 of this agreement, deduct from payments or credits due Contractor after such breach, a sum equal to **One Thousand Nine Hundred** and no/100ths Dollars **($1,900.00)** for each calendar day beyond the date herein provided for the completion of such work. This deduction shall not be considered a penalty but shall be considered as liquidated damages. The aforementioned rate of deduction is an amount agreed to by the Contractor and the City as reasonably representing additional construction engineering costs incurred by the City if the Contractor fails to complete the work within the contract time. However, any deduction assessed as liquidated damages shall not relieve the Contractor from liability for any damages or costs resulting from delays to other contractors on the project or other projects caused by a failure of the assessed Contractor to complete the work within the contract time. Due account shall be taken of any time extensions granted to the Contractor by the City. Permitting the Contractor to continue work beyond the contract completion date shall not operate as a waiver on the part of the City of any of its rights under the contract nor shall it relieve the Contractor from liability for any damages or costs resulting from delays to other contractors on the project or other projects caused by a failure of the assessed Contractor to complete the work within the contract time.

10. **Performance By Sureties:**

In the event of any termination as hereinbefore provided, City shall immediately give written notice thereof to Contractor and Contractor's sureties, and the sureties shall have the right to take over and perform the agreement; provided, however, that if the sureties within five (5) days after giving them said notice of termination, do not give the City written notice of their intention to take over the performance of the agreement and do not commence performance thereof within five (5) days after notice to the City of such election, City may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable for the account, and at the expense of Contractor and the sureties shall be liable to City for any excess cost or damages occasioned City thereby; and, in such event, City may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

11. **Disputes Pertaining To Payment For Work:**

Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this contract, such dispute shall be decided by the City Engineer, and the decision of the latter shall be final and conclusive.

12. Permits, Compliance With Law:

Contractor shall, at Contractor's expense, obtain all necessary permits and licenses for the construction of each improvement, give all necessary notices and pay all fees and taxes required by law.

13. Superintendence By Contractor:

Contractor shall give personal superintendence to the work on said improvement or have a competent foreman or superintendent satisfactory to the City Engineer on the work at all times during progress, with authority to act for him.

14. Inspection By City:

Contractor shall at all times maintain proper facilities and provide safe access for inspection by City to all parts of the work and to the shops wherein the work is in preparation.

15. Extra And/Or Additional Work And Changes:

Should City at any time during the progress of said work request any alterations, deviations, additions, or omissions from said specifications or plans or other contract documents, it shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of said contract price as the case may be, by fair and reasonable valuation. Request for such change must be made in writing signed by the City Engineer, shall be accompanied by plans and specifications for such purpose, shall be accepted in writing by Contractor and Contractor's surety.

In the event work is performed or materials furnished in addition to those set forth in Contractor's bid and the specifications herein, said work and materials shall be paid for at the unit price therein contained. Said amount shall be paid in installments as hereinafter provided.

16. Change Of Contract Price:

The contract price may only be changed by a contract change order. The value of any work covered by a contract change order for an adjustment in the contract price will be determined in the City's sole discretion as follows:

(a) If the work performed is on the basis of unit prices contained in the contract documents, the change order will be determined in accordance with the provisions in Section 4-1.05, "Changes and Extra Work", of the Caltrans Standard Specifications; or

(b) If the work performed is not included on the engineers estimate associated with a unit price, the change order will be by a mutually agreed lump sum; or

(c) If the change order is not determined as described above in either 16 (a) or 16 (b), the change order will be determined on the basis of force account in accordance

with the provisions below.

FORCE ACCOUNT

For work paid by force account, the Engineer compares the City's records to the Contractor's daily force account work report. When the Engineer and the Contractor agree on the contents of the daily force account work reports, the Engineer accepts the report and the City pays for the work. If the records differ, the City pays for the work based only on the information shown on the City's records.

If a subcontractor performs work at force account, accept an additional 2 percent markup to the total cost of that work paid at force account, including markups specified as below, as reimbursement for additional administrative costs.

The markups specified in labor, materials, and equipment includes compensation for all delay costs, overhead costs, and profit.

If an item's unit price is adjusted for work-character changes, the City excludes the Contractors cost of determining the adjustment.

Payment for owner-operated labor and equipment is made at the market-priced invoice submitted.

Labor

Labor payment is full compensation for the cost of labor used in the direct performance of the work plus a 5 percent markup. Force account labor payment consists of:

1. Employer payment to the worker for:
   - 1.1. Basic hourly wage
   - 1.2. Health and welfare
   - 1.3. Pension
   - 1.4. Vacation
   - 1.5. Training
   - 1.6. Other State and federal recognized fringe benefit payments
2. Labor surcharge percentage in *Labor Surcharge and Equipment Rental Rates* current during the work paid at force account for:
   - 2.1. Workers' compensation insurance
   - 2.2. Social security
   - 2.3. Medicare
   - 2.4. Federal unemployment insurance
   - 2.5. State unemployment insurance
   - 2.6. State training taxes
3. Subsistence and travel allowances paid to the workers
4. Employer payment to supervisors, if authorized

The 5 percent markup consists of payment for all overhead costs related to labor but not designated as costs of labor used in the direct performance of the work including:

1. Home office overhead
2. Field office overhead
3. Bond costs
4. Profit
5. Labor liability insurance
6. Other fixed or administrative costs that are not costs of labor used in the direct performance of the work

Materials

Material payment is full compensation for materials the Contractor furnishes and uses in the work. The Engineer determines the cost based on the material purchase price, including delivery charges, except:

1. A 5 percent markup is added
2. Supplier discounts are subtracted whether the Contractor takes them or not
3. If the Engineer believes the material purchase prices are excessive, the City pays the lowest current wholesale price for a similar material quantity
4. If the Contractor procured the materials from a source the Contractor wholly or partially own, the determined cost is based on the lower of the:

4.1. Price paid by the purchaser for similar materials from that source on Contract items

4.2. Current wholesale price for those materials

5. If the Contractor does not submit a material cost record within 30 days of billing, the determined cost is based on the lowest wholesale price:

5.1. During that period

5.2. In the quantities used

Equipment Rental

Equipment rental payment is full compensation for:

1. Rental equipment costs, including moving rental equipment to and from the change order work site using its own power.
2. Transport equipment costs for rental equipment that cannot be transported economically using its own power. No payment is made during transport for the transported equipment.
3. 5 percent markup.

If the Contractor wants to return the equipment to a location other than its original location, the payment to move the equipment must not exceed the cost of returning the equipment to its original location. If the Contractor uses the equipment for work other than work paid by force account, the transportation cost is included in the other work.

Before moving or loading the equipment, obtain authorization for the equipment rental's original location.

The Engineer determines rental costs:

1. Using rates in *Labor Surcharge and Equipment Rental Rates*:
   - 1.1. By classifying equipment using manufacturer's ratings and manufacturer-approved changes.
   - 1.2. Current during the work paid by force account.
   - 1.3. Regardless of equipment ownership; but the City uses the rental document rates or minimum rental cost terms if:
     - 1.3.1. Rented from equipment business the Contractor does not own.
     - 1.3.2. The Labor Surcharge and Equipment Rental Rates hourly rate is $10.00 per hour or less.
2. Using rates established by the Engineer for equipment not listed in *Labor Surcharge and Equipment Rental Rates*. The Contractor may submit cost information that helps the Engineer establish the rental rate; but the City uses the rental document rates or minimum rental cost terms if:
   - 2.1. Rented from equipment business the Contractor does not own.
   - 2.2. The Engineer establishes a rate of $10.00 per hour or less.
3. Using rates for transport equipment not exceeding the hourly rates charged by established haulers.

Equipment rental rates include the cost of:

1. Fuel
2. Oil
3. Lubrication
4. Supplies
5. Small tools that are not consumed by use
6. Necessary attachments
7. Repairs and maintenance
8. Depreciation
9. Storage
10. Insurance
11. Incidentals

The City pays for small tools consumed by use. The Engineer determines payment for small tools consumed by use based on Contractor-submitted invoices.

The Engineer may authorize rates in excess of those in the *Labor Surcharge and Equipment Rental Rates* if:

1. The Contractor submits a request to use rented equipment
2. Equipment is not available from the Contractors normal sources or from one of the Contractors subcontractors
3. Rented equipment is from an independent rental company
4. Proposed equipment rental rate is reasonable
5. The Engineer authorizes the equipment source and the rental rate before the Contractor uses the equipment

Equipment on the Job Site

For equipment on the job site at the time required to perform work paid by force account, the time paid is the time:

1. To move the equipment to the location of work paid by force account plus an equal amount of time to move the equipment to another location on the job site when the work paid by force account is completed
2. To load and unload equipment
3. Equipment is operated to perform work paid by force account and:
   3.1. Hourly rates are paid in 1/2-hour increments
   3.2. Daily rates are paid in 1/2-day increments

Equipment Not On the Job Site Required for Original-Contract Work

For equipment not on the job site at the time required to perform work paid by force account and required for original-Contract work, the time paid is the time the equipment is operated to perform work paid by force account and the time to move the equipment to a location on the job site when the work paid by force account is completed.

The minimum total time paid is:

1. 1 day if daily rates are paid
2. 8 hours if hourly rates are paid

If daily rates are recorded, equipment:

1. Idled is paid as 1/2 day
2. Operated 4 hours or less is paid as 1/2 day
3. Operated 4 hours or more is paid as 1 day

If the minimum total time exceeds 8 hours and if hourly rates are listed, the City rounds up hours operated to the nearest 1/2-hour increment and pays based on the hours shown the following table. The table does not apply when equipment is not operated due to breakdowns, in which case rental hours are the hours the equipment was operated.

Equipment Rental Hours

Hours operated	Hours paid
0.0	4.00
0.5	4.25
1.0	4.50
1.5	4.75
2.0	5.00
2.5	5.25
3.0	5.50
3.5	5.75
4.0	6.00
4.5	6.25
5.0	6.50
5.5	6.75
6.0	7.00
6.5	7.25

7.0	7.5
7.5	7.75
≥8.0	hours used

Equipment Not On the Job Site Not Required for Original-Contract Work

For equipment not on the job site at the time required to perform work paid by force account and not required for original-Contract work, the time paid is the time:

1. To move the equipment to the location of work paid by force account plus an equal amount of time to return the equipment to its source when the work paid by force account is completed
2. To load and unload equipment
3. Equipment is operated to perform work paid by force account

Non-Owner-Operated Dump Truck Rental

Submit the rental rate for non-owner-operated dump truck rental. The Engineer determines the payment rate. Payment for non-owner-operated dump truck rental is for the cost of renting a dump truck, including its driver. For the purpose of markup payment only, the non-owner-operated dump truck is rental equipment and the owner is a subcontractor.

The above markups shall constitute full compensation for all home office overhead, field office overhead, bond costs, profit, labor liability insurance, and other fixed or administrative costs that are not costs specifically designated as cost or equipment rental as stated above. The total payment made as provided above shall be deemed to be the actual cost of the work and shall constitute full compensation therefor.

When extra work to be paid for on a force account basis is performed by a subcontractor, approved in conformance with the provisions in Section 5-1.13, "Subcontracting," an additional markup of 2 percent will be added to the total cost of that extra work including all markups specified in this Section. The additional 2 percent markup shall reimburse the Contractor for additional administrative costs, and no other additional payment will be made by reason of performance of the extra work by a subcontractor.

17. Change Of Contract Time:

The contract time may only be changed by a contract change order. The value of any work covered by a contract change order for an adjustment in the contract time will be determined as follows:

(a) Additional working days will be awarded where the amount of time is mutually agreed upon by Contractor and Engineer; or

(b) Additional working days will be awarded where Contractor is prevented from completing any part of the work identified on the critical path and:

a. where the delay is caused by acts of public enemy, fire, floods, tsunamis, earthquakes, epidemics, quarantine restrictions, strikes, labor disputes, shortage of materials and freight embargos, provided that Contractor shall notify Engineer in writing of the causes of delay within 15 days from the beginning of that delay; or

b. where the delay is caused by actions beyond the control of Contractor; or

c. where the delay is caused by actions or failure to act by Engineer.

Contractor shall not be entitled to an adjustment in contract time for delays within the control of Contractor. Delays resulting from and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

18. Inspection And Testing Of Materials:

Contractor shall notify City a sufficient time in advance of the manufacture of production materials to be supplied by Contractor under this contract in order that City may arrange for mill or factory inspection and testing of same.

Any materials shipped by Contractor from factory prior to having satisfactorily passed such testing and inspection by City's representative or prior to the receipt of notice from such representative that such testing and inspection will not be required shall not be incorporated on the job of said improvement. Contractor shall also furnish City, in triplicate, certified copies of all factory and mill test reports upon request.

19. Permits And Care Of The Work:

Contractor has examined the site of the work and is familiar with its topography and condition, location of property lines, easements, building lines, and other physical factors and limitations affecting the performance of this agreement. Contractor, at Contractor's expense, shall obtain any permission necessary for any operations conducted off the property owned or controlled by City. Contractor shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance.

20. Other Contracts:

City may award other contracts for additional work, and Contractor shall fully cooperate with such other Contractors and carefully fit Contractor's own work to that provided under other contracts as may be directed by the City Engineer. Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor.

21. Payments To Contractor:

Payments are to be made to the Contractor in accordance with the provisions of Section 9 of the General Conditions of said specifications in legally executed and regularly issued warrants of the city, drawn on the appropriate fund or funds as required by law and order of the City Council thereof. The Contractor shall be administered a progress payment approximately every 30 calendar days from the time work begins according to the payment schedule furnished by the City Engineer at the time work begins.

Pursuant to Division 2, Part 5, Section 22300, *et seq.*, of the Public Contracts Code, the Contractor may request the right to substitute securities for any moneys withheld by the City of Turlock to ensure the performance required of the Contractor under the contract, or that the City of Turlock make payment of retentions earned directly into an escrow account established at the expense of the Contractor.

22. Contract Security:

Concurrently with the execution hereof, Contractor shall furnish on the forms provided (1) a surety bond in an amount equal to at least one hundred percent (100%) of the contract price as security for the faithful performance of this contract; and (2) a separate surety bond in an amount equal to at least one hundred percent (100%) of the contract price as security for the payment of all persons performing labor and furnishing materials in connection with this contract. Sureties on each of said bonds thereof shall be satisfactory to the City.

23. Hold-Harmless Agreement And Contractor's Insurance:

Contractor shall indemnify, defend, and hold harmless City and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of City.

24. Contractor's Insurance:

Contractor shall not commence work under this Agreement until Contractor has obtained City's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with additional insured endorsements (form CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), to be approved by the City of Turlock.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Insurance Service Office Form CP 00 20 with Causes of Loss – Special Form CP 10 30 covering Builder's Risk (Course of Construction) insurance covering all risks of loss less policy exclusions.

(5) Surety bonds as described below.

(6) Errors and Omissions/Professional Liability Insurance (if *Design/Build*).

(b) Minimum Limits of Insurance: Contractor shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: $1,000,000 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: As statutorily required by the State of California.

(4) Employer's Liability: $1,000,000 per accident for bodily injury or disease.

(5) Builder's Risk: Completed value of the project with no coinsurance penalty provisions.

(6) Errors and Omissions/Professional Liability: $1,000,000 per claim as needed for design/build.

(c) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) Contractor shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(d) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:

(1) City, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing and completed operations coverage.

(2) For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects City and any insurance or self-insurance maintained by City shall be excess of Contractor's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to City under this Agreement, the insurer, broker/producer, or Contractor shall provide City with thirty (30) days' prior written notice of such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Builder's Risk (Course of Construction) Insurance: City shall be named as loss payee.

(f) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII or with an insurer to which the City has provided prior approval.

(g) Verification of Coverage: Consultant shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(h) Waiver of Subrogation: With the exception of professional liability, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of City for all work performed by Contractor, its agents, employees, independent contractors and subcontractors. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(i) Subcontractors: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(j) Surety Bonds: Contractor shall provide a Performance Bond and a Payment Bond.

25. Proof Of Carriage Of Insurance:

Contractor shall furnish City concurrently with the execution hereof, satisfactory proof of carriage of the insurance required, and that Contractor shall give City at least sixty (60) days prior notice of the cancellation of any policy during the effective period of this contract.

26. Wages & Hours Of Employment:

In the performance of this contract, eight (8) hours shall be the maximum hours of labor on any calendar day, and the minimum wages of compensation of persons performing labor in the execution of this agreement shall be the current prevailing scale of wages determined by the Director of the Department of Industrial Relations for the community.

The Contractor shall forfeit as penalty to the City, Twenty-five and no/100ths Dollars ($25.00) to be paid to the City of Turlock for each workman employed in the execution of this agreement by him or by any subcontractor, for each calendar day during which any workman is required or permitted to labor more than eight (8) hours, in violation of provisions of Article 3, Chapter 1, Part 7, a Division 2, of the Labor Code of the State of California, and all amendments thereto.

27. Emergency - Additional Time For Performance - Procurement Of Materials: If, because of war or other declared national emergency, the Federal or State Government restricts, regulates, or controls the procurement and allocation of labor or materials, or both, and if solely because of said restrictions, regulations or controls, Contractor is through no fault of the Contractor, unable to perform this agreement, or the work is thereby suspended or delayed, any of the following steps may be taken.

(a) City may, pursuant to resolution of the Council, grant Contractor additional time for the performance of this agreement, sufficient to compensate in time, for delay or suspension.

To qualify for such extension in time, Contractor within ten (10) days of Contractor's discovering such inability to perform, shall notify City Engineer in writing thereof, and give specific reasons therefore; City Engineer shall thereupon have sixty (60) days within which to procure such needed materials or labor as is specified in this agreement, or permit substitution, or provide for changes in the work in accordance with other provisions of this agreement.

Substituted materials, or changes in the work, or both, shall be ordered in writing by City Engineer, and the concurrence of the Council shall not be necessary. All reasonable expenses of such procurement incurred by the City Engineer shall be defrayed by the Contractor; or

(b) If such materials or labor cannot be procured through legitimate channels within sixty (60) days after the filing of the aforesaid notice, either party may, upon thirty (30) days' written notice to the other, terminate this agreement. In such event, Contractor shall be compensated for all work executed upon a unit basis in proportion to the amount of the work completed, or upon a cost-plus-ten-percent (10%) basis, whichever is the lesser. Materials on the ground, in process of fabrication or in route upon the date of notice of termination specially ordered for the project and which cannot be utilized by Contractor, shall be compensated for by City at cost, including freight, provided the Contractor shall take all steps possible to minimize this obligation; or

(c) City Council, by resolution, may suspend this agreement until the cause of inability to perform is removed but for a period of not to exceed sixty (60) days.

If this agreement is not canceled, and the inability of Contractor to perform continues without fault on Contractor's part, beyond the time during which the agreement may have been suspended, as herein above provided, City Council may further suspend this agreement, or either party hereto may, without incurring any liability, elect to declare this agreement terminated upon the ground of impossibility

of performance. In the event City declares this agreement terminated, such declaration shall be authorized by the City Council by resolution, and Contractor shall be notified in writing thereof within five (5) days after the adoption of such resolution. Upon such termination, Contractor shall be entitled to proportionate compensation at the agreement rate for such portion of the agreement as may have been performed, or

(d) City may terminate this agreement, in which case Contractor shall be entitled to proportionate compensation at the agreed rate for such portion of the agreement as may have been performed. Such termination shall be authorized by resolution of the Council. Notice thereof shall be forthwith given in writing to Contractor, and this agreement shall be terminated upon receipt by Contractor of such notice.

In the event of the termination provided in this sub-paragraph (d), none of the covenants, conditions or provisions hereof shall apply to the work not performed, and City shall be liable to Contractor for the proportionate compensation last herein mentioned.

28. Provisions Cumulative:

The provisions of this agreement are cumulative, and in addition to and not in limitation of, any other rights or remedies available to City.

29. Taxes:

Contractor shall cooperate with City to the full extent possible to maximize the local allocation of California sales and use tax to the City. Such cooperation shall include but not be limited to:

(a) Use Tax Direct Payment Permits. Contractor shall apply for, obtain and utilize, to the maximum extent reasonable, a California Use Tax Direct Payment Permit.

(b) Purchases of $500,000 or More. Contractor shall require vendors and suppliers located outside California from whom Contractor makes purchase of $500,000 or more to allocate the use tax to the City.

Additional information regarding use tax and the Permit can be found in the State of California Board of Equalization, Sales and Use Tax Regulations, Regulation 1699.6, Use Tax Direct Payment Permits, or on the web site for the Board of Equalization at http://www.boe.ca.gov/sutax/sutprograms.htm

30. Notices:

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

City of Turlock
City Engineer
156 S. Broadway, Suite 150
Turlock, CA 95380-5454

Notices required to be given to Contractor shall be addressed as follows:

_____
_____
_____

Notices required to be given sureties of Contractor shall be addressed as follows:

_____
_____
_____
_____

31. Interpretation:
As used herein, any gender includes each other gender, the singular includes the plural and vice versa.

32. Antitrust Claims:
The Contractor or subcontractor offers and agrees to assign to the City all rights, title and interest to any causes of action under Section Four of the Clayton Act and the Cartwright Act concerning antitrust claims.

33. Use of City Project Number:
The Contractor or subcontractor agrees to use the aforementioned City project number on all maps, drawings, submittals, billing, and written correspondence that involve City staff or contracted consultants. Nothing in this section shall preclude the Contractor or subcontractor from using their own project numbers for their own internal use.

34. Required Contract Provisions For Federal-Aid Construction Contracts
Form FHWA-1273 is included in this Agreement in accordance with federal-aid requirements. The full text of this form is included in this section, unmodified and in its entirety.

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of

discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs,

i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral

practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified

as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or

program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.
Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be

necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of

the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all

lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants.

Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

IN WITNESS WHEREOF, three identical counterparts of this agreement, consisting of a total of 50 pages, each of which counterparts shall for all purposes be deemed an original of said agreement, have been duly executed by the parties hereinabove named, on the day and year first herein above written.

(Attach Contractor's Seal Here)

CONTRACTOR

_____

_____

Print Name

Address: _____

_____

_____

Phone: _____

Date: _____

Federal Tax ID or
Social Security Number: _____

CITY OF TURLOCK, a municipal corporation

_____

Roy W. Wasden, City Manager

APPROVED AS TO SUFFICIENCY:

_____

Michael G. Pitcock, P.E., Director of
Development Services / City Engineer

APPROVED AS TO FORM:

_____

Phaedra A. Norton, City Attorney

ATTEST:

_____

Kellie E. Weaver, City Clerk

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as sole Surety, in the State of California, and held and firmly bound unto the City of Turlock, a municipal corporation of the State of California, in the sum of _____Dollars ($_____) for the payment thereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that: Whereas the above bounden Principal has entered, or is about to enter, into a certain contract with the City of Turlock, entitled "Agreement for **City Project No. 13-63, "Geer Road Rehabilitation STPL-5165(076),"** a true and correct copy of which agreement is presently on file in the office of the City Clerk of the City of Turlock, which said agreement is hereby referred to and made a part hereof.

NOW, THEREFORE, if the above bounden Principal shall well and truly perform the work contracted to be performed under said contract, then this obligation shall be void, otherwise to remain in full force and effect.

No prepayment or delay in payment and no changes, extension, addition or alteration of any provision of said contract or in any plans and specifications referred to herein, and no forbearance on the part of the City shall operate to release the Surety from liability on this Bond, and consent to make such alterations without further notice to or consent by the Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the Civil Code of the State of California.

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Dated this _____day of _____, 20__.

_____
(Principal)
By: X_____

By: X_____

_____
(Surety)
By: X_____

By: X_____

Address:_____

_____
(Zip)
Phone:_____

(Attach Acknowledgment
Both Principal's and Surety's
Attorney In Fact)

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BOND FOR LABOR AND MATERIAL

KNOW ALL BY THESE PRESENTS:

That _____, as Principal, and _____, incorporated under the laws of the State of _____ and authorized to execute bonds and undertakings as sole Surety, in the State of California, as Surety, are held and firmly bound unto any and all material, men, persons, companies or corporations furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed under the contract hereinafter mentioned, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to said work to be done, and all persons who perform work or labor upon the same, and all persons who supply both work and materials, and whose claim has not been paid by the Contractor, company, or corporations in the just and full sum of_____ Dollars ($_____) for payment thereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that: Whereas the above bounden Principal has entered, or is about to enter, into a certain contract with the City of Turlock, entitled "Agreement for **City Project No. 13-63, "Geer Road Rehabilitation STPL-5165(076),"** a true and correct copy of which agreement is presently on file in the office of the City Clerk of the City of Turlock, which said agreement is hereby referred to and made a part hereof.

NOW, THEREFORE, if the above bounden Principal or said Principal's subcontractors, fail to pay for any materials, provisions provender or other supplies, or teams, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, the Surety will pay for the same, in an amount not exceeding the sum specified in this bond, provided that any and all claims hereunder shall be filled and proceedings had in connection therewith as required by the provisions of Sections 5100, et. seq., inclusive, of the Public Contracts Code of the State of California, and any amendments thereof; provided, also, that in case suit is brought upon this bond, a reasonable attorney's fee shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be fixed as costs in said suit, and to be included in the judgment therein rendered.

No prepayment or delay in payment and no change, extension, addition, or alteration of any provision of said contract or in said plans and specifications agreed to between the Principal and

the City, and no forbearance on the part of the City, shall operate to release the Surety from liability on this bond, and consent to make such alterations without further notice to or consent by the Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the Civil Code of the State of California.

Dated this _____ day of _____, 20__.

_____
(Principal)

By: X_____

By: X_____

_____
(Surety)

By: X_____

By: X_____

Address:_____

_____
(Zip)
Phone:_____

(Attach Acknowledgment
Both Principal's and
Surety's Attorney In Fact)

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BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF APPROPRIATING $205,000 TO ACCOUNT NUMBER 215-40.420.51210 "FEDERAL STREET PROJECTS" TO BE FUNDED VIA A TRANSFER OF SECTION 2103 GAS TAX MONIES FROM FUND 217 "GAS TAX FUND" FOR CITY PROJECT NO. 13-63, "GEER ROAD REHABILITATION," TO COMPLETE THE NECESSARY FUNDING REQUIRED FOR THE PROJECT	}	**RESOLUTION NO. 2014-**

WHEREAS, the City secured federal RSTP funds for the rehabilitation of Geer Road from Monte Vista Avenue to Taylor Road; and

WHEREAS, per the federal program guidelines, the City must provide a minimum funding match for the federal monies; and

WHEREAS, the City must utilize the federal funds for this specific project as identified through the NEPA process; and

WHEREAS, the Gas Tax Fund is specifically for the use of roadway rehabilitation; and

WHEREAS, these Gas Tax monies are available for use.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby appropriate $205,000 to account number 215-40-420.51210 "Federal Street Projects" to be funded via a transfer of Section 2103 Gas Tax Monies from Fund 217 "Gas Tax Fund" for City Project No. 13-63, "Geer Road Rehabilitation," to complete the necessary funding required for the project.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____

Kellie Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

5E

Council Synopsis

December 9, 2014

From: Michael G. Pitcock, P. E.
Director of Development Services / City Engineer

Prepared by: Anthony R. Orosco, Senior Civil Engineer

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving the final map and agreement conditioned upon construction of improvements of Traditions No. 6, Subdivision Project No. 14-32, developed by Fitzpatrick Homes-Traditions, LLC

2. DISCUSSION OF ISSUE:

Traditions No. 6 is a proposed subdivision that will create 15 Low Density Residential Lots on the south side of Sandstone Street between Mountain View Road and N. Tegner Road. The Planning Commission approved the tentative subdivision map after holding a public hearing on June 5, 2014.

3. BASIS FOR RECOMMENDATION:

A) Per the subdivision map act, the City Council must approve final maps.

4. FISCAL IMPACT / BUDGET AMENDMENT:

No impact.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

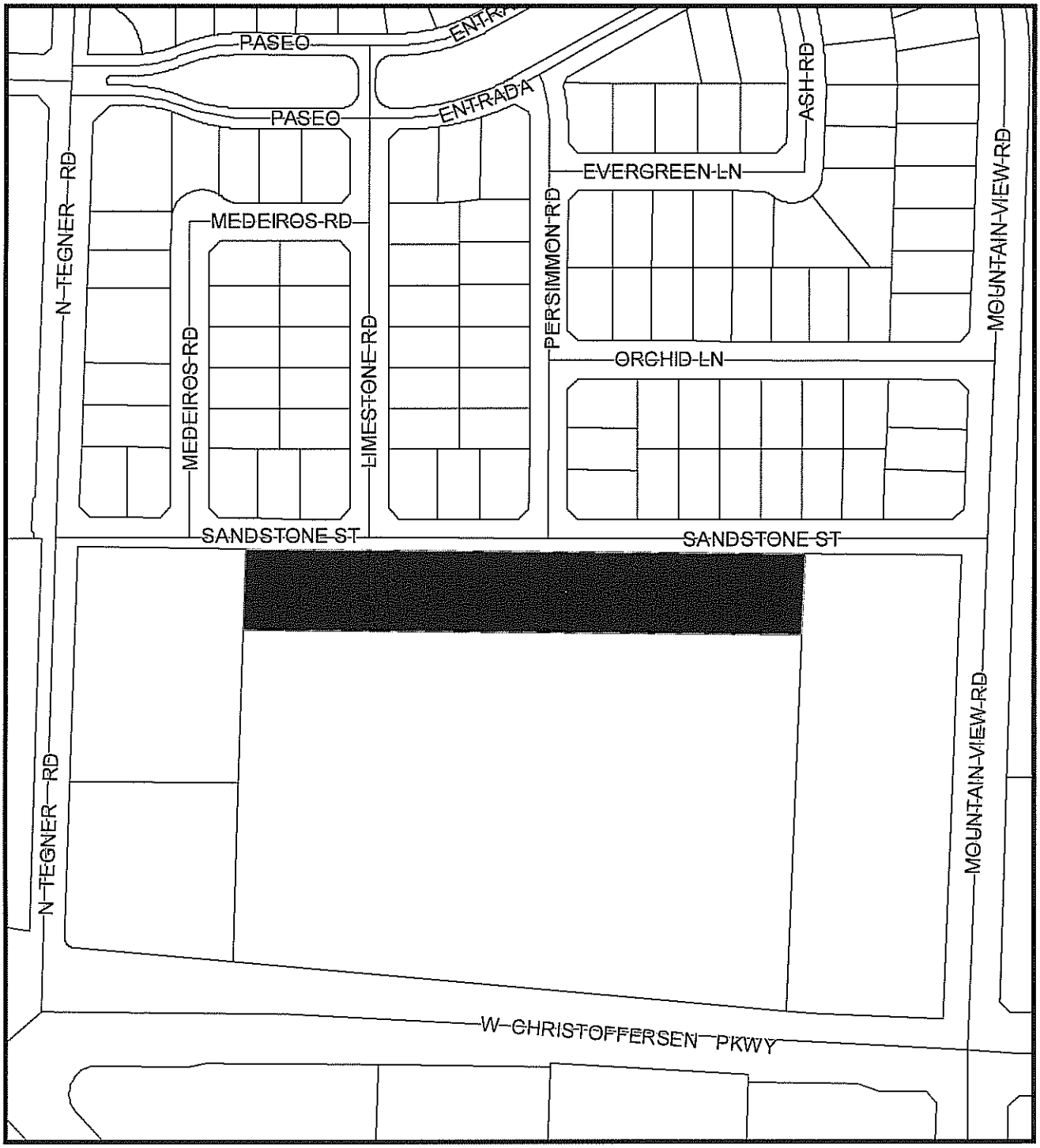
6. ENVIRONMENTAL DETERMINATION:

Not applicable

7. ALTERNATIVES:

A. Reject Final Map. Staff does not recommend this, as Subdivision Map Act specifies that if Final Map conforms to the Map Act and the City of Turlock Municipal Code, the Subdivision Map must be approved. Staff has determined that said map does conform to the Municipal Code and the Subdivision Map Act.

SITE MAP
FOR
Traditions No. 6 Subdivision



Filing Requested By:

City of Turlock
Development Services
Planning Division
156 S. Broadway, Suite 120
Turlock, CA 95380-5454

When Filed Mail To:

Same as above

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2014-0037146-00
Tuesday, JUN 10, 2014 09:05:51
Rcpt # 0003531902

OMK/R2/1-11

SPACE ABOVE THIS LINE FOR CLERK'S USE ONLY

RESOLUTION NO. 2014-07

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF TURLOCK APPROVING
VESTING TENTATIVE SUBDIVISION MAP 2014-01
(FITZPATRICK HOMES – Traditions 6)

PROPERTY OWNER:	Fitzpatrick Homes 4216 Kiernan Avenue, Suite 205 Modesto, CA 95356
APPLICANT:	Same as above
SITE ADDRESS:	2920 Sandstone Street
APN:	087-026-003

WHEREAS, the Planning Commission of the City of Turlock, State of California, has considered said application proposing a 15 lot residential subdivision on approximately 2.2-acres to be developed consistently with the Low Density (RL) zoning district standards; and

WHEREAS, the property affected by this Resolution is described as Stanislaus County Assessor's Parcel No. 087-026-003 and,

WHEREAS, the City of Turlock adopts a Mitigated Negative Declaration, having determined that the City of Turlock, as lead agency for the proposed project, has prepared an initial study to make the appropriate findings and,

WHEREAS, after public hearing held on June 5, 2014, the Planning Commission found and determined as follows:

Section 1. The Planning Commission adopts a Mitigated Negative Declaration of Environmental Effect and a Mitigation Monitoring Program, having determined that the City of Turlock, as lead agency for the proposed project, has prepared an initial study to make the following findings:

1. Pursuant to CEQA Guidelines Section 15162, the proposed activity is adequately described and is within the scope of the General Plan EIR.
2. All feasible mitigation measures developed in the General Plan EIR have been incorporated into the project.
3. Pursuant to Public Resources Code Sections 21080(c)(2) and 21157.5, the initial study prepared for the proposed project has identified potential new or significant effects that were not adequately analyzed in the General Plan EIR but feasible mitigation measures have been incorporated to revise the proposed subsequent project to avoid or mitigate the identified effects to a point where clearly no significant effects would occur.
4. There is no substantial evidence before the lead agency that that the subsequent project, as revised, may have a significant effect on the environment.
5. The analyses of cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment contained in the General Plan EIR are adequate for this subsequent project.
6. Pursuant to CEQA Guidelines Section 15093, a Statement of Overriding Considerations was adopted for the General Plan EIR by Turlock City Council Resolution 2012-156. As identified in the Turlock General Plan EIR, development in the project area would result in significant, and unavoidable, impacts in the areas of noise, regional air quality, and the eventual loss of agricultural land. The magnitude of these impacts can be reduced, but not eliminated by the mitigation measures referenced in the initial study prepared for this project and General Plan EIR. Therefore, mitigation measures identified in the General Plan EIR, and its respective Statements of Overriding Considerations (contained in Turlock City Council Resolution No. 2012-156), are adequate to mitigate the impacts from the proposed project where feasible, and are hereby incorporated by reference.
7. Pursuant to Public Resources Code Section 21157.6(a), having reviewed the General Plan EIR the City of Turlock finds and determines that:
   a. no substantial changes have occurred with respect to the circumstances under which the General Plan EIR was certified, and
   b. that there is no new available information which was not and could not have been known at the time the General Plan EIR was certified.

Section 2. That Vesting Tentative Subdivision Map No 2014-01 (Fitzpatrick Homes – Traditions 6) would be permissible subject to the following findings:

1. The proposed subdivision is in conformance with the General Plan and the North Turlock Master Plan.
2. That the design and improvements are consistent with the General Plan and the North Turlock Master Plan.
3. That the site is physically suited for the proposed development.
4. That the site is physically suitable for the potential density of the proposed development.
5. That the proposed subdivision or associated improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the project or the types of improvements will not cause public health problems.
7. That the discharge of waste from the proposed subdivision into the Turlock Treatment Facility will not violate existing requirements prescribed by the California Regional Water Quality Control Board.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Turlock that Vesting Tentative Subdivision Map 2014-01 (Fitzpatrick Homes – Traditions 6) is hereby approved subject to compliance with all applicable codes and ordinances and the mitigation monitoring program, and subject to the terms and conditions set forth below. All conditions listed below shall be complied with prior to issuance of Certificate of Occupancy, or equivalent, unless otherwise stipulated:

Planning Division (668-5640)

1. This approval authorizes the subdivision of a 2.2 acre property into 15 single-family residential lots. The subdivision shall generally conform to the standards of the R-L zoning district.
2. The proposed subdivision shall be developed in accordance with the vesting tentative subdivision map dated March 10, 2014, submitted as part of the application for this project, except as may be amended herein.
3. The proposed subdivision shall be developed consistent with the provisions and standards established for the North Turlock Master Plan.
4. All off-premise subdivision directory / sales signs proposed in conjunction with the project shall obtain a separate City of Turlock sign permit and comply with the sign criteria and standards established in the Turlock Municipal Code. **Note:** snipe signs (i.e. signs of a temporary nature advertising a specific event or product and which are illegally posted to trees, posts, poles, stakes, fences or similar support structures) are expressly prohibited.
5. The developer must comply with the requirements established in TMC § 9-2-121 (Underground Utilities).
6. To adequately fund the ongoing provision of public services (including but not limited to police, fire, and public maintenance), the subject property shall be included in a (Mello Roos) Community Facilities District (CFD #2) to fund a Services Mitigation Fee. A final subdivision map shall not be recorded until the subject property has been annexed to the Community Facilities District. Pursuant to City Council Resolution 2004-31, annexation to the proposed Communities Facilities District is required to mitigate the project's impacts upon police, fire and public maintenance operations.
7. All homes shall be designed consistently with the standards contained in Sections 3.1.1 of the North Turlock Master Plan. House plans will be reviewed and approved by the Planning Division staff prior to application for a building permit to ensure that the proposed house designs comply with the design standards of the North Turlock Master Plan.
8. Model homes for the subdivision shall comply with Section 9-2-109(12) of the City of Turlock Municipal Code.

9. In the event the city determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the city, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree with applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails on every issue in the enforcement proceeding.

10. The developer shall pay all City of Turlock city wide and specific plan development impact fees prior to issuance of the building permit.

11. All lighting shall be designed to confine light spread within the site boundaries. Lighting shall not become a source of glare for adjoining residential properties.

12. Lighting shall be oriented to minimize impacts upon nearby residences.

13. Sources of high illumination shall be separated from light-sensitive receptors.

14. If ground disturbing activities, such as grading, occurs during the typical nesting season, February through mid-September the developer is required to have a qualified biologist conduct a survey of the site no more than 10 days prior to the start of disturbance activities. If nests are found, no-disturbance buffers around active nests shall be established as follows until the breeding season has ended or until a qualified biologist determines that the birds have fledged and are no longer on the nest for survival: 250 feet for non-listed bird species; 500 feet for migratory bird species; and one-half mile for listed species and fully protected species.

15. If nests are found they should be continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences the nest shall be continuously monitored to detect any behavioral changes as a result of the project. If behavioral changes are observed, the work causing the change should cease and the Department consulted for additional avoidance and minimization measures.

16. If Swainson's Hawks are found foraging on the site prior to or during construction, the applicant shall consult a qualified biologist for recommended proper action, and incorporate appropriate mitigation measures. Mitigation may include, but are not limited to: establishing a one-half mile buffer around the nest until the breeding season has ended or until a qualified biologist determines that the birds have fledged and are no longer dependent on the nest for survival. Mitigating habitat loss within a 10 mile radius Mitigating habitat loss within a 10 mile radius of known nest sites as follows: providing a minimum of one acre of habitat management land or each acre of development for projects within one mile of an active nest tree. Provide a minimum of .75 acres of habitat management land for each acre of development for projects within between one and five miles of an active nest tree. Provide a minimum of .5 acres of habitat management land for each acre of development for projects within between five and 10 miles of an active nest tree.

17. Burrowing owl has the potential to be present on and adjacent to the project site year-round, therefore the Department of Fish and Wildlife recommends the survey methodology described in the Staff Report on Burrowing Owl Mitigation dated March 7, 2012 (CDFG 2012) be followed before beginning ground-disturbing activities. If burrowing owls are found the mitigation described in the CDFG staff report on

burrowing owls shall be followed.

18. The applicant shall comply with all applicable federal, State, and local laws and regulations related to the protection and preservation of endangered and/or threatened species through consultations with appropriate agencies.

19. In accordance with State Law, if any historical resources are found during construction, work is to stop, and the City of Turlock and a qualified professional are to be consulted to determine the importance and appropriate treatment of the find. If it is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resources shall be formulated and implemented.

20. If previously unrecorded archaeological resources, as defined by State Law are discovered, construction activities shall be suspended and a qualified archaeologist shall be called to evaluate the find and to recommend proper action.

21. If human remains are discovered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the coroner determines that no investigation of the cause of death is required and if the remains are of Native American origin, the coroner will notify the Native American Heritage Commission, which in turn will inform a most likely descendant. The descendant will then recommend to the landowner appropriate disposition of the remains and any grave goods.

22. The project shall comply with the current California Building Code (CBC) requirements for Seismic Zone 3, which stipulates building structural material and reinforcement.

23. The project shall comply with California Health and Safety Code Section 19100 et seq. (Earthquake Protection Law), which requires that buildings be designed to resist stresses produced by natural forces caused earthquakes and wind.

24. The project shall comply with the California Building Code (CBC), Chapter 70, regulating grading activities including drainage and erosion control.

25. The project shall comply with all erosion control measures listed in the Air Quality, and Hydrology and Water quality sections of this document.

26. The project shall comply with the California Building Code (CBC) requirements for specific site development and construction standards for specified soils types.

27. The project shall meet the fire protection standards established by the City. Typical standards include, but are not limited to:

    - On-site hydrants;
    - Adequate emergency access to buildings;
    - Hazardous materials plans

28. The project shall connect to the City's Master Storm Drainage System.

29. The project shall comply with the Regional water Control Board's regulations and standards to maintain and improve groundwater and surface water quality.

30. Site grading shall be designed to created positive drainage throughout the site and

to collect the storm water for the storm water drainage system.

31. The incorporation of grassy swales and other best management practices are encouraged to filter storm water.

32. The discharge of oil, gasoline, diesel fuel, or any other petroleum derivative, or any toxic chemical or hazardous waste is prohibited.

33. Materials and equipment shall be stored so as to ensure that spills or leaks cannot enter storm drains, or the drainage ditches or detention basins.

34. A spill prevention and cleanup plan shall be implemented.

35. The builder and/or developer shall utilize cost-effective urban runoff controls, including Best Management Practices (BMP's), to limit urban pollutants from entering the drainage ditches.

36. A General Construction permit shall be obtained from the State Water Resources Control Board, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented as part of this permit.

37. Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday.

38. All construction equipment used during construction shall be fitted with factory-equipped mufflers.

39. Staging areas for heavy equipment shall be located as far from residences as possible.

40. All unnecessary idling of internal combustion engines shall be prohibited.

41. All adjacent business, residences, and noise-sensitive land uses shall be notified of the construction schedule, in writing, prior to commencing construction activities, including any changes in the construction schedule that would extend the time period during which construction would occur.

42. A 'disturbance coordinator' shall be designated who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

43. Prior to the issuance of a building permit, the developer shall pay all applicable citywide and specific plan development impact fees.

44. The developer shall improve the Sandstone Street frontage, abutting the project, to current City of Turlock standards.

Air Quality

45. The applicant shall comply with all applicable San Joaquin Valley Air Pollution Control District rules and regulations.

46. The builder and/or developer shall comply with the SJVAPCD Compliance Assistance Bulletin for Fugitive Dust Control at construction sites.

47. Minimize unnecessary vegetation clearing, earth-moving, or excavation activities.

48. Sprinkle all portions of the site completely twice daily (watering can be reduce dust emissions by 50%). If water is in short supply, alternative dust control measures such as chemical stabilizers or wind barriers may be used.

49. Schedule major dust-generating activities for the early morning and other hours when wind velocities are low. All clearing, grading, earth-moving, and excavation should cease during periods with winds greater than 20 miles per hour averaged over one hour.

50. Water, stabilize, or cover storage piles of debris, fill dirt, sand or other materials that can be blown by the wind.

51. Sweep construction areas and adjacent streets of all mud and debris after construction equipment leaves the site.

52. Water or securely cover soil, gravel, and other materials in vehicles traveling to the site and limit the speed of all construction vehicles to 15 mph while on-site to prevent excessive amounts of airborne dust.

53. Limit trips onto construction site to only those vehicles requiring access for construction purposes.

54. Burning of any vegetation cleared in preparation for development is prohibited.

55. Idling of construction vehicles is limited to ten minutes at any one time, and all combustion engine driven equipment is to be properly maintained and tuned.

56. Minimize the unnecessary use of paints and solvents in construction.

57. In accordance with San Joaquin Valley Unified Air Pollution Control District's Rule 4901 (as amended 7/17/2003), the following restrictions will apply:

    a) No installation of wood-burning fireplaces in a new residential development with a density greater than two (2) dwellings units per acre.

    b) No installation of more than two (2) EPA Phase II Certified wood burning heaters per acre in any new residential development with a density equal to or greater than three (3) dwelling units per acre.

58. No installation of more than one (1) wood burning fireplace or wood burning heater per dwelling unit in any new residential development with a density equal to or less than two (2) dwelling units per acre.

59. Natural gas lines and electrical outlets shall be installed in yard or patio areas to encourage the use of gas and/or electrical barbeques; and electric mowers and edgers.

Engineering Division (668-5520)

60. In the event that multiple final maps are filed, the City of Turlock reserves the right to impose reasonable conditions and fees relating to the filing of multiple final maps.

61. The City of Turlock standard improvements necessary for fire and safety purposes shall be installed and accepted by the Fire Department prior to the issuance of any Building Permit.

62. Construction of the required improvements may be deferred until after recording of the subdivision map provided that a subdivision improvement agreement has been executed, bonds and insurance certificates filed, and all fees paid.

63. Provide easements required by all utility service providers.

64. Provide a minimum10 foot Public Utility Easement behind property line along all street frontages.

65. Provide written consent, as provided in Section 54715 of the California Government Code, to the levy of an assessment to finance the operation and maintenance of drainage, flood control, street maintenance, and street lighting service which benefits the area to be developed.

66. Provide written consent, as provided in Section 22500 of the Streets and Highways Code, to the formation of an assessment district to finance the maintenance of landscaping.

67. This map shall be based upon and tied to a minimum of two (2) monuments on our grid system. The City of Turlock's grid system was established on Volume 20 of surveys, at page 56, Stanislaus County Records 20-S-56.

68. The developer shall pay all City of Turlock city wide and specific plan development impact fees adjusted to the current Engineering News Record, prior to issuance of the building permit or as specified in the City of Turlock Municipal Code.

69. All lots shall be graded to drain towards the public street with no cross lot drainage allowed. If the grade differential between lots or surrounding ground is 1 foot or greater a retaining wall shall be required per City of Turlock standards. If the grade differential between lots or surrounding ground is between 1/2 foot and 1 foot, the developer shall use a wood type retaining wall/fence depending on the individual situation, to be approved by the City Engineer as part of the subdivision improvement plans.

70. All building pads shall be one (1) foot higher than the nearest flow-line high point, plus 2%. This condition may be waived by the City Engineer if, upon review of the improvement plans, he deems it is not necessary.

71. Each lot will have access to a water service prior to the issuance of any Building Permits as reasonably approved by the City Engineer and Fire Marshall.

72. A grading permit is required for any on-site work (grading, paving, concrete, etc). Please submit a cost estimate for all on-site work, as well as six (6) sets of improvement plans including an erosion control plan for review and approval. All parcels disturbing more than one acre of land must apply for a Notice of Intent with the State of California Water Quality Control Board. The W.D.I.D. number, which is provided by the state, must be submitted to the City prior to grading permit issuance.

73. An encroachment permit is required for all off-site work. Please submit a cost estimate for all off-site work, liability insurance listing the City of Turlock as additionally insured, as well as six (6) sets of improvement plans for review and approval.

74. Due to the number of utility cuts required by this subdivision, the City shall require a 2" asphalt overlay from curb to curb on Sandstone Street. Asphalt oil shall be PG 70-10.

75. Striping and signing plans shall be included as a part of the final improvement plans. Stop signs shall be installed by the developer. Street name signs will be installed by the City, but paid for by the developer. Developer will prepare a striping plan utilizing thermoplastic and markers for the development.

76. The Developer shall install all Sandstone St. frontage improvements for the City owned lot at Mountain View Rd. and Sandstone Street. All costs associated with said frontage improvements shall be paid for by the City of Turlock Municipal Services Department. Developer shall provide a detailed construction cost estimate for inclusion in the Subdivision Improvement Agreement.

77. A letter outlining all fees and other requirements for recording of the Subdivision Map will be forthcoming only after the map and all related documents have been submitted and checked by the Engineering Division.

Building & Safety Division (668-5560)

78. The project shall comply with all applicable codes.

Fire Services (668-5580)

79. The project shall comply with the current California Fire Code, National Fire Code (NFPA), California Mechanical Code, and the Turlock Municipal Code in effect at the time of building permit application. THIS IS NOT A PLAN REVIEW. Additional requirements may be applicable upon Fire Department review of building plans.

80. Before vertical construction begins: 1) Onsite fire hydrant shall be in service; 2) Blue hydrant markers shall be in street; 3) Fire access roadway shall be installed to support the imposed load of fire apparatus weighing at least 75,000 pounds; 4) Temporary address signage shall be clearly visible from the primary roadway.

81. Buildings or structures shall have an approved asphalt or concrete fire access road installed and accepted prior to final inspection.

82. Address numerals shall be a *minimum* of 6' tall with ¾" stroke, contrast with background, be clearly visible from the primary roadway and be illuminated either internally or externally between dusk and dawn daily. TMC 4-3-204(g).

Municipal Services (668-5590)

83. Prior to issuance of a building permit, water and sewer utilities shall be reviewed and approved by Municipal Services (668-5590).

84. Prior to issuance of a building permit, storm water facilities shall be reviewed and approved by Municipal Services.

Parks, Recreation & Public Facilities Maintenance (668-5594)

85. The developer is required to install subdivision street trees to City specifications, in accordance with City of Turlock standards (TMC §7-7-500 and §9-2-109(8ii)). The approved subdivision street tree for this area is *Chinese Pistache* 'Keith Davey' variety. Any variation from the above listed street tree must first be approved by the

Parks, Recreation & Public Facilities Maintenance Department. Please contact Municipal Services for review of tree layout and inspection prior to installation of street trees

Turlock Irrigation District (883-8300)

86. An irrigation pipline and 20-foot easement runs from east to west along the south side of the existing Sandstone Street fronting the project area. Unless the downstream irrigator (APN 087-026-001) abandons from the improvement district, this pipeline will need to be upgraded to current District standards. The easement may need to be adjusted in light of the proposed street cross section. The District standard joint irrigation and dry utility PUE is 15 feet.

87. It will be necessary for the developer to submit plans detailing the existing irrigation facilities, relative to the proposed site improvements, in order for the District to determine specific impacts and requirements.

88. The District shall review and approve all maps and plans of the project. Any improvements to this property which impact irrigation facilities shall be subject to the District's approval and meet all District standards and specifications. If it is determined that irrigation facilities will be impacted, the applicant will need to provide irrigation improvement plans and enter into an Irrigation Improvements Agreement for the required irrigation facility modifications. There is a District Board approved time and material fee associated with this review.

89. Work on irrigation facilities can only be performed during the non-irrigation season which typically runs from November 1, thru March 1, but can vary.

90. The subject parcel is a member of Improvement District (ID) 978, the Hess. District standards require that properties that will no longer irrigate or have direct access to water must apply for abandonment of the parcel(s) from the improvement district(s). Developed property adjoining irrigated ground must be graded so that finished grading elevations are at least 6 inches higher than irrigated ground. A protective berm must be installed to prevent irrigation water from reaching non-irrigated properties.

91. A 13-foot Public Utility Easement must be dedicated along all street frontages (if the irrigation is abandoned).

92. The owner/developer must apply for a facility change for any poleor electrical facility relocation. Facility changes are performed at developer's expense.

Central Valley Regional Water Quality Control Board (916-464-4684)

93. The developer shall comply with all applicable Central Valley Water Board rules, regulations, and permits.

Section 3. The establishment of Vesting Tentative Subdivision Map No. 2014-01 (Fitzpatrick Homes – Traditions 6) requires compliance with the conditions of approval, which shall be binding on all heirs, assignees, and successors in interest of said property.

Section 4. The Director of Community Development Services, or designee, is hereby directed to record this Resolution at the office of the County Recorder of the County of Stanislaus.

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly adopted by the Planning Commission of the City of Turlock at a regular meeting of said Planning Commission held on the 5th day of June, 2014, by the following vote:

AYES:	Hackler, Hillberg, Fregosi, Brem, Bean, Dias, Badal
NOES:	None
ABSTAINED:	None
ABSENT:	Pedroza, Pollard

ATTEST:

MICHAEL G. PITCOCK
DIRECTOR OF DEVELOPMENT SERVICES &
SECRETARY OF THE TURLOCK PLANNING COMMISSION

No Fee Document Pursuant
To Government Code § 6103

CITY OF TURLOCK
ATTENTION: CITY CLERK
156 SOUTH BROADWAY, SUITE 230
TURLOCK, CALIFORNIA 95380-5456

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

CITY OF TURLOCK
SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 9th day of December, 2014, by and between the **CITY OF TURLOCK**, a municipal corporation, (hereinafter referred to as "City"), and Fitzpatrick Homes-Traditions, LLC, a California limited liability company, (hereinafter referred to as "Developer").

RECITALS

A. Developer has presented to the City a certain Final Map of a proposed subdivision of land located within the corporate limits of the City that has been prepared in accordance with the Subdivision Map Act of the State of California, the subdivision ordinances of the City, and the Tentative Subdivision Map, if any, of the subdivision previously approved by the City Council of the City.

B. The proposed subdivision of land is commonly known and described as Traditions No. 6, and is herein referred to as the "subdivision".

C. Developer has requested approval of the Final Map prior to the construction and completion of the public improvements (as shown on the approved improvement plans), including, but not limited to streets, highways, public ways, sidewalks, curbs, gutters, bikeways, storm drainage facilities, sanitary sewer facilities, domestic/reclaimed water facilities, public utility facilities, landscaping, public lighting facilities, park or recreational improvements and appurtenances thereto, in or required by the Subdivision Map Act, the subdivision ordinances of the City, the Tentative Subdivision Map and development agreement, if any, approved by the City. The foregoing improvements are hereinafter referred to as "the required improvements".

D. Section 11-8-101 of the Turlock Municipal Code requires that, prior to the approval by the City Council of the Final Map, Developer shall execute an improvement agreement with the City to ensure the construction of the infrastructure improvements.

NOW, THEREFORE, the parties agree as follows:

1. Performance of Work. Developer agrees to furnish, construct, and install at his

own expense the required improvements as shown on the approved plans and specifications of the subdivision, a copy of which is on file in the office of the City Engineer and is incorporated herein by reference, along with any changes or modifications as may be required by the City Engineer due to errors, omissions, changes in conditions, or changes in facilities as required by the City Engineer. The approved plans and specifications of the required improvements may be modified by the Developer as the development progresses, provided that any modification is approved in writing by the City Engineer. The total estimated cost of the required improvements is **Two Hundred Fifty Three Thousand Seven Hundred Twenty Six AND 00/100^{ths} DOLLARS ($253,726.00)**.

2. Work: Satisfaction of City Engineer. All of the work on the required improvements is to be done at the places, of the materials, and in the manner and at the grades, all as shown upon the approved plans and specifications and as required by the City's current Standard Specifications and Drawings and any applicable City ordinances or state and federal laws, and to the satisfaction of the City Engineer. The Developer hereby grants access to the development for inspection purposes and agrees to notify City Engineer in advance of required inspections.

3. Deviation from Standards. If Developer deviates from the approved improvement drawings, specifications or standards, or shall construct any improvement in such a manner so as to, in the opinion of the City Engineer, endanger the public safety, City may cause the necessary corrections to be made without notice. In the event such deviations do not, in the opinion of the City Engineer, endanger the public safety, the City Engineer may give Developer written notice of such deviations, and Developer shall correct the deviation in the time prescribed by the City Engineer. In the event of the failure of Developer to make corrections of deviations, whether or not the public safety is affected, City may cause the necessary corrections to be made and shall be reimbursed by Developer at cost plus 25%. Said amount shall be paid by Developer prior to the acceptance of the improvements, or may be deducted from any reimbursement due from City to Developer, or may be obtained from the performance bond.

4. Work; Time for Commencement and Performance. Work on the required improvements shall be completed by the Developer on or before twelve (12) months from the date of this Agreement. At least fifteen (15) calendar days prior to the commencement of such work, the Developer shall notify the City Engineer in writing of the date fixed by Developer for commencement of the work.

5. Time of Essence; Extension.

a. Time is of the essence for this Agreement.

b. Developer agrees to cause all improvements to be made and constructed in said subdivision to fully comply with the requirements of the Turlock Municipal Code regulating the subdivision of land within twelve (12) months from the date of this Agreement; provided however, that the City Manager is authorized to extend the time within which said improvements shall be completed for four (4) additional periods not to exceed six (6) months each if he is of the opinion that granting the extension will not be detrimental to the public welfare. No such extension shall be made except upon the basis of a written application made by Developer stating fully the grounds of the application and the facts relied upon them for such extension. In any event, all improvements must be completed within

thirty-six (36) months of the date of this Agreement. In the event that Developer shall fail to complete such work within said time, City may complete the work and recover the full cost and expense thereof from Developer.

6. Improvement Security. Concurrently with the execution of this Agreement, the Developer shall furnish the City:

a. Performance Bond in the sum of **Two Hundred Ninety Five Thousand Four Hundred Forty One and 75/100ths DOLLARS ($295,441.75)**, which sum is equal to one hundred percent of the total estimated cost of constructing the required improvements and the cost of any other obligation to be performed by Developer under this Agreement, conditioned upon the faithful performance of this Agreement; and

b. Labor and Materials Bond in the sum of **One Hundred Twenty Six Thousand Eight Hundred Sixty Three and No/100ths DOLLARS ($126,863.00)**, which sum is equal to fifty percent (50%) of the estimated cost of constructing the required improvements, securing payment to the contractor, subcontractor and to persons furnishing labor, materials, or equipment to them for the construction of the required improvements.

c. Warranty Security in a form determined by the City Engineer and in the sum of **Twenty Five Thousand Three Hundred Seventy Two and 60/100ths DOLLARS ($25,372.60)**, which sum is equal to ten percent (10%) of the total estimated cost of constructing the required improvements to correct deficiencies and conditions caused by Developer, contractor, or subcontractor that may arise after construction of the Subdivision.

d. The estimated total cost of required improvements includes a ten percent (10%) construction cost contingency, the cost of the installation of survey monuments in the Subdivision to guarantee and secure the placement of such monuments as provided by Section 66496 of the Government Code of the State of California, and an estimated utility cost in addition to ensure installation of public utilities. In lieu of providing the estimate of total utility costs, the Developer may submit, in a form acceptable to the City engineer, certification from the utility companies that adequate security has been deposited to ensure installation.

e. If the Developer has completed the required improvements and the City will accept the required improvements prior to execution of this Agreement, the Developer may provide a warranty security in accordance with Section 14 of this Agreement in lieu of the separate improvement securities required by Section 6.a. and 6.b. of this Agreement.

7. Monumentation Security. Developer shall post acceptable security to guarantee the payment of the cost of setting the monuments. The cost of setting the monuments has been determined to be **One Thousand Six Hundred AND 00/100ths DOLLARS ($1,600.00)**. Developer shall pay the engineer or surveyor for the cost of setting the monuments within three (3) months from date of notification by the engineer or surveyor that the monuments have been set. If Developer does not pay the engineer or surveyor within three (3) months from date of notification, the City shall pay the engineer or surveyor from the security and refund the difference, if any, to Developer.

8. Plan Checking and Inspection Fees. The Developer shall pay to the City fees for the checking, filing, and processing of improvement plans and specifications, and for

inspecting the construction of the required improvements in the amounts and at the times established by the City.

9. Facility Fees and Reimbursements. Developer's obligation to pay for previously constructed facilities for sewer, water, or storm drainage or other public facilities which benefit the subdivision, his obligation to pay fees in lieu of land for parks, and his right to receive reimbursement for the cost of certain facilities constructed as part of the Improvements required for the subdivision identified in this Agreement are as set forth in Exhibit "A" attached hereto.

10. Indemnification and Hold Harmless. The Developer shall indemnify, defend, and hold harmless the City, its agents, officers, and employees from any and all losses, damage, or liability resulting from Developer's performance or non-performance of his duties and obligations under this Agreement; or from negligence, act or admission of himself, his agents, servants and employees. Developer shall, at his own cost and expense, defend any and all actions, suits, or legal proceedings that may be brought or instituted against the City, its officers and employees, on any such claim or demand, and pay or satisfy any judgment that may be rendered against the City in any such actions, suits or legal proceedings, or result thereof.

11. Insurance. Developer shall not commence work under this Agreement until Developer has obtained CITY's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall Developer allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. Developer shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Developer, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

a. Minimum Scope of Insurance: Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 20 10 and 20 37), to be approved by the City of Turlock.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Errors and Omissions/Professional Liability Insurance.

b. Minimum Limits of Insurance: Developer shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): $1,000,000 per occurrence for bodily injury, personal injury and property

damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: $1,000,000 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: as statutorily required by the State of California. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

(4) Errors and Omissions/Professional Liability: $1,000,000 per claim.

c. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) Developer shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions: The commercial general liability policy shall contain or be endorsed to contain the following provisions:

(1) CITY, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Developer, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to Developer's insurance (CG 20 10 and CG 20 37 or their equivalent), or as a separate Owners Protective Liability policy providing both ongoing operations and completed operations.

(2) For any claims related to this project, Developer's insurance coverage shall be primary insurance as respects CITY and any insurance or self-insurance maintained by CITY shall be excess of Developer's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to CITY under any of the required insurance coverages, the insurer, broker/producer, or Developer shall provide CITY with thirty (30) days' prior written notice of such action.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

e. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

f. Verification of Coverage: Developer shall furnish CITY with original

certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Developer's obligation to provide them. CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

g. Waiver of Subrogation: With the exception of professional liability, Developer hereby agrees to waive subrogation which any insurer of Developer may acquire from Developer by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of CITY for all work performed by Developer, its agents, employees, independent contractors and subcontractors. Developer agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

h. Subcontractors: Developer shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

12. Acceptance of Work. Prior to acceptance of work by the City Engineer, the Developer shall be solely responsible for maintaining the quality of the work, and maintaining the safety of the site. The Developer's obligation to perform the work shall not be satisfied until after the City Engineer has made written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Engineer has recorded a Notice of Completion.

13. Title to Improvements. Title to and ownership of the required public improvements constructed under this Agreement by Developer shall vest absolutely in the City upon completion and written acceptance of such improvements by the City Engineer. The City Engineer shall not accept the required improvements unless Developer certifies that such improvements have been constructed in conformity with the approved plans and specifications, approved modifications, if any, the approved Final Map, City Standard Specifications and Drawings, any applicable City Ordinances or State and Federal laws and after 35 days from the date of filing of a Notice of Completion.

14. Warranty Security. Prior to acceptance of the required improvements by the City Engineer, the Developer shall provide security in the amount and in the form as required by the City Engineer to guarantee the improvements against any defective work or labor done or defective materials used in the performance of the required improvements (Warranty Security) throughout the warranty security period which shall be the period of one year following completion and filing of Notice of Completion with the Stanislaus County Recorder of the improvements (Warranty Security Period). The amount of the Warranty Security shall not be less than 10 percent of the cost of the construction of the improvements, including the form of security required in paragraph 6.c. of this Agreement, as determined by the City Engineer, which shall be retained for the Warranty Security Period.

15. Repair or Reconstruction of Defective Work or Materials. If, within the Warranty Security Period or the applicable statute of limitations, whichever is longer, any improvement or part of any improvement furnished and/or installed or constructed by

Developer or any of the work done under this Agreement fails to fulfill any of the requirements of the Agreement or the specifications referred to herein as determined by the City, Developer shall without delay and without any cost to the City, repair, replace, or reconstruct any defective or otherwise unsatisfactory part or parts of the required improvements. If the Developer fails to act promptly or in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before the Developer can be notified, then the City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Developer shall pay to City the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by City. The parties further understand and agree that the Warranty Security furnished pursuant to paragraph 14 of this Agreement shall guarantee and secure the faithful performance and payment of the provisions of this paragraph during the Warranty Security Period.

16. Developer Not Agent of City. Neither Developer nor any of Developer's agents or contractors are or shall be considered to be agents of City in connection with the performance of Developer's obligations under this Agreement.

17. Supplying "Record Drawing" Plans. Upon completion of the Improvements and prior to certification of completion, Developer shall supply the City, at no cost to the City, one set of "record" drawings. These drawings shall be certified as being "record drawings" and shall reflect the Improvements as actually constructed, with all changes to the Plans incorporated therein.

18. Notice and Certification of Completion. Developer shall advise the City Engineer in writing of the completion of the Improvements herein specified and request certification of completion. Upon satisfactory completion of the Improvements by Developer and request for certification of completion, the City Engineer or his/her designee shall issue a certificate indicating that the required Improvements have been completed. For the purposes of this Agreement, the date of completion shall be the date that the City Engineer or his/her designee issues a certificate of completion.

19. Adequacy of and Revisions to Plans. Developer warrants that the Plans are adequate to accomplish the Improvements. If, at any time before the City Engineer certifies completion of the Improvements, the Plans prove to be inadequate in any respect, the Developer shall bring those inadequacies to the attention of the City Engineer or his/her designee. Similarly, if the City Engineer or his/her designee discovers that the Plans are inadequate in any respect, the City Engineer or his/her designee shall notify the Developer of the inadequacy/inadequacies. If such inadequacies are discovered, the Developer shall make changes to the Plans to remedy the inadequacies and, upon approval of the revised Plans by the City Engineer or his/her designee, complete the Improvements according to the revised Plans.

After completing all required revisions, Developer or subdivider's engineer shall transmit the originals of the Improvement plans to the City Engineer for signature. Upon finding that all required revisions have been made and that the plans conform to all applicable City laws, design review requirements, and conditions of approval of the tentative map, the City Engineer shall sign and date the plans. The originals shall be returned to Developer or subdivider's engineer. Approval by the City Engineer shall in no way relieve the Developer, subdivider, or the subdivider's engineer from responsibility for the design of the

Improvements, and for any deficiencies resulting from the design, or from any required conditions of approval of the tentative map.

20. Nonperformance and Costs. If, within the time specified in this Agreement and any approved extension, Developer fails to complete the Improvements or to act promptly as required by this Agreement, or should an urgency arise that requires the repair or replacement of an Improvement, the City may, but is not required to, proceed to complete the Improvements pursuant to the Plans, by contract or otherwise, and Developer, immediately upon demand, shall pay the costs and charges related to said work, together with a fifteen percent (15%) overhead charge.

21. Remedies. The City may bring legal action to: (1) compel performance of this Agreement; (2) ensure compliance with the Conditions; and (3) recover the costs (including the City's administrative costs) of completing the Improvements pursuant to paragraph 15. The City may also seek any and all remedies available in law or equity. The Developer agrees that, if legal action is brought by the City, the Developer shall pay all of the costs of suit and reasonable attorneys' fees and all other expenses of litigation as determined by the court having jurisdiction over such suit, if such court rules that the Developer has failed to carry out any of its obligations under this Agreement.

22. Responsibilities for Damage. Any damage to the public improvements, or to any portion of adjacent properties, that occurs during construction or during the warranty period shall be completely repaired by the Developer to the satisfaction of the City Engineer or his/her designee.

23. Utility Deposits – Statement. Developer shall satisfy the City Building Official that it has made the deposits required for utilities to be supplied and connected within the subdivision prior to obtaining a building permit.

24. Permits and Fee Payments – Compliance with Law. Developer shall obtain all necessary permits and licenses for the construction of Improvements, and shall pay all fees and taxes required by applicable law, including state law and local ordinance.

25. Superintendence by Developer. Developer shall personally supervise the work or have a competent foreman or superintendent on the work site at all times during the course of construction with the authority to act for Developer.

26. Inspections – Payment of Fees. The City is authorized to enter the Property for inspection purposes at any time. Developer shall at all times maintain the Property so that the City and any agency authorized to make inspections can safely access and inspect all parts of the Property. Developer shall pay to the City the cost of inspecting the Improvements, including the costs of staff time and any consulting services determined to be necessary by the City Engineer, as well as all the cost of all other services furnished by the City in connection with the Project. Developer further agrees to pay any required in-lieu fee for the undergrounding of utilities on peripheral streets, and all development fees required by City.

27. Erosion Control. Developer shall take all necessary actions during the course of construction of all Improvements to prevent erosion damage to adjacent properties or improvements (including, but not limited to, City streets and other City infrastructure or

property). It is understood and agreed that in the event of failure on the part of Developer to prevent erosions, City may do the work of Improvement and/or erosion protection measures on an emergency basis and Developer shall reimburse City for the actual expenses incurred (including administrative and/or legal expenses plus 15% overhead charge) within thirty (30) days after City mails a billing statement for such expenses to Developer. If such reimbursement is not timely made, City is entitled to obtain such reimbursement from Developer and/or, in addition to any other City remedies allowed by law, may proceed against the Faithful Performance Security to cover City's expenses.

28. No Waiver by City. Inspection of the work and/or materials, or approval of work and/or materials inspected, or a statement by an officer, agent or employee of the City indicating the work complies with this Agreement, or acceptance of all of these acts shall not relieve Developer of its obligation to fulfill the Agreement; nor is the City by these acts prohibited from bringing an action for damages or specific enforcement arising from the failure to comply with this Agreement. No action or omission by the City shall constitute a waiver of any provision of this Agreement unless expressly provided in writing. No course of dealing between Developer and the City, or any delay on the part of the City in exercising any rights hereunder, shall operate as a waiver of any rights by the City, except to the extent these rights are expressly waived in writing by the City.

29. Agreement Attaches to the Land – Recordation. This Agreement pertains to and runs with the Property described. This Agreement shall be recorded in the office of the County Recorder at the expense of the Developer and shall constitute notice to all successors and assigns of the title to the real property of the obligations set forth herein. This Agreement shall also constitute a lien on the Property, subject to foreclosure in the event of default in payment, in an amount sufficient to fully reimburse the City for any cost to the City of enforcing this Agreement, including interest from the date of the notice of any cost or expense until paid.

30. Notice of Breach and Default. If Developer refuses or fails to prosecute the work, or any part thereof, with such diligence as will ensure its completion within the time specified, or any extension thereof, or fails to complete the work within such time, or if Developer should be adjudged a bankruptcy, or Developer should make a general assignment for the benefit of his creditors, or if a receiver should be appointed in the event of Developer's insolvency, or if Developer or any of Developer's contractors, subcontractors, agents or employees should violate any of the provisions of this Agreement and the City may, but is under no obligation to, serve written notice upon Developer and Developer's surety, if any, of breach of this Agreement, or of any portion thereof.

31. Breach of Agreement; Performance by Surety or City. In the event of any such notice, Developer's surety, if any, shall have the duty to take over and complete the work and the required improvements; provided, however, that if the surety within fifteen (15) days after the serving of such notice of breach upon it does not give the City written notice of its intention to take over the performance thereof within fifteen (15) days after notice to the City of such election, then the City may take over the work and prosecute the same to completion by contract, or by any other method the City may deem advisable, for the account and at the expense of the Developer, and the Developer's surety shall be liable to City for any excess costs of damages incurred by the City; and in such event, the City, without liability for so doing, may take possession of and utilize in completing the work, such materials, appliances, plant or other property belonging to Developer as may be on the site of the work and

necessary therefor.

If the form of improvement security is other than a bond, then the City, after giving notice of breach of the Agreement, may proceed to collect against the improvement security in the manner provided by law and by the terms of the security instrument.

32. Notices. All notices required under this Agreement shall be in writing, and delivered in person or sent by registered or certified mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

City of Turlock
Development Services Department
Attention: City Engineer
156 South Broadway, Suite 150
Turlock, California 95380

Notices required to be given to Developer shall be addressed as follows:

Fitzpatrick Homes – Traditions, LLC
Attention: Shawn Fitzpatrick
4216 Kiernan Ave., Ste. 205
Modesto, California 95356

Any party of the surety may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

33. Authority to Execute. Developer warrants and represents that the person signing on behalf of Developer has the authority to execute this Agreement on behalf of Developer and has the authority to bind the Developer and the Property to the terms and obligations set forth in this Agreement. Developer agrees that this Agreement, and any instrument or agreement required hereunder, are within the Developer's powers, have been duly authorized and delivered, and do not conflict with Developer's organizational powers.

34. Assignment. This Agreement shall bind and inure to the benefit of the assigns, successors in interest, heirs, executors, and administrators of the parties and the parties agree that the City may cause a copy of this Agreement to be recorded in the Stanislaus County Recorder's Office. Developer's rights and obligations under this Agreement are not assignable or transferrable without the prior written consent of the City.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officer's thereunto duly authorized.

DEVELOPER

By: _____

Signature *(must be notarized)*

_____

CITY OF TURLOCK, a municipal corporation

By: _____
Roy W. Wasden, City Manager

APPROVED AS TO FORM:

Please print or type signer's name

_____

Please print or type signer's title

Address: _____

_____

_____

By: _____
Phaedra A. Norton, City Attorney

APPROVED AS TO SUFFICIENCY:

By: _____
Michael G. Pitcock, P.E.
Director of Development Services/
City Engineer

ATTEST:

By: _____
Kellie E. Weaver, City Clerk

STATE OF CALIFORNIA)
) ss:
COUNTY OF STANISLAUS)

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

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

WITNESS my hand and official seal.

_____
Signature of Notary

BOND # _____
PREMIUM:_____

PERFORMANCE BOND
for Subdivision Improvement Agreement

WHEREAS, The City Council of the City of Turlock, a municipal corporation in the State of California, and _____, (hereinafter designated as "Principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, and identified as _____ is hereby referred to and made a part hereof; and,

WHEREAS, Said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement;

NOW THEREFORE, We, the principal, and _____, as surety, are held and firmly bound unto the City of Turlock, hereinafter referred to as the City; in the penal sum of _____ ($_____), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally firmly by these presents.

The condition of this obligation is such that if the above bounded principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and provisions in the said agreement and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successful enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named principal and surety on _____, 20__.

BY _____
(PRINCIPAL)

BY _____
(SURETY)

BY _____
(ADDRESS)

BY _____
(CITY, STATE, ZIP)

BY _____
(TELEPHONE)

APPROVED AS TO FORM

BY _____
CITY ATTORNEY

BOND # _____
PREMIUM:_____

LABOR & MATERIALS BOND
for Subdivision Improvement Agreement

WHEREAS, The City Council of the City of Turlock, a Municipal Corporation of the State of California, and _____, (hereinafter designated as "Principal"), have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, and identified as _____ is hereby referred to and made a part hereof; and,

WHEREAS, under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Turlock to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California;

NOW THEREFORE, said principal and the undersigned as corporate surety, are held firmly bound unto the City of Turlock and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure, in the sum of _____ ($_____), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, cost and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persona, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named principal and surety on _____, 20__.

BY _____
(PRINCIPAL)

BY _____
(SURETY)

BY _____
(ADDRESS)

BY _____
(CITY, STATE, ZIP)

BY _____
(TELEPHONE)

APPROVED AS TO FORM

BY _____
CITY ATTORNEY

EXHIBIT "A"

REIMBURSEMENT / IMPROVEMENT AGREEMENT
FOR TRADITIONS NO. 6

I. WATER:

A. TMC 6-5.202

CONNECTION:
AMOUNT FROM DEVELOPER:
NONE

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

B. TMC 6-5.203

WATER FRONTAGE: SANDSTONE ST.
834 LF of 10" Water Line @ $34.98/LF: ***$29,173.32***

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

C. TMC 6-5.204

EXTENSION TO OTHER PROPERTY: (ENR ADJUSTED)
AMOUNT FROM CITY:
NONE

TIME: 30 DAYS AFTER CITY FILES NOTICE OF COMPLETION

D. TMC 6-5.205

WATER MAINS CONSTRUCTED: (ENR ADJUSTED)
AMOUNT FROM CITY:
NONE

TIME: UPON COLLECTION FROM PROPERTY OWNERS WITHIN TEN (10) YEARS AFTER DATE OF ACCEPTANCE

OVERSIZED LINES CONSTRUCTED:
AMOUNT FROM CITY:
NONE

TIME: 30 DAYS AFTER CITY FILES NOTICE OF COMPLETION

E. TMC 6-5.207

WATER WELL SITE:
AMOUNT FROM CITY:
Roadway Widening and Frontage Improvements along Sandstone St. In Front of City Owned Water Well Parcel ***$56,753.00***

TIME: 30 DAYS AFTER CITY FILES NOTICE OF COMPLETION

II. SANITARY SEWER:

A. TMC 6-4.503

CONNECTION:
AMOUNT FROM DEVELOPER:
NONE

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

B. TMC 6-4.505

EXTENSION TO OTHER PROPERTY: (ENR ADJUSTED)
AMOUNT FROM CITY:
NONE

TIME: 30 DAYS AFTER CITY FILES NOTICE OF COMPLETION

SEWER MAINS CONSTRUCTED: (ENR ADJUSTED)
AMOUNT FROM CITY:
NONE

TIME: UPON COLLECTION FROM PROPERTY OWNERS WITHIN TEN (10) YEARS AFTER DATE OF ACCEPTANCE

OVERSIZED LINES CONSTRUCTED:
AMOUNT FROM CITY:
NONE

TIME: 30 DAYS AFTER CITY FILES NOTICE OF COMPLETION

C. TMC 6-4.603

SEWER FRONTAGE: SANDSTONE ST.
834 LF of 10" Sewer Line @ $29.44/LF: ***$24,552.96***

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

III. STORM DRAINAGE

A. TMC 6-5.802

MASTER STORM DRAINAGE:
AMOUNT FROM DEVELOPER:
2.20 acres @ $6,287.41 acre: ***$13,832.30***

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

B. TMC 6-5.806

LOCAL:
AMOUNT FROM CITY:
NONE

TIME: UPON COLLECTION FROM PROPERTY WITHIN TEN YEARS OR FROM APPLICABLE STORM DRAINAGE FUND 30 DAYS AFTER CITY FILES NOTICE OF COMPLETION

IV. MISCELLANEOUS:

A. TMC 7-5.02

STREET LIGHT INSTALLATION:
AMOUNT FROM DEVELOPER:
834 LF non-arterial street @ $8.27/LF: ***$6,897.18***

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

B. TMC 11-7.202

IN LIEU PARK FEES:
AMOUNT FROM DEVELOPER:
Park Land: 15 dwelling units x 2.87 persons/household x 4.5 acres/1000 persons x $250,000/acre = ***$48,431.25***

TIME: PRIOR TO APPROVAL OF THE RECORD MAP

5F

Council Synopsis

December 9, 2014

From: Michael G. Pitcock, P. E.
Director of Development Services / City Engineer

Prepared by: Anthony R. Orosco, Senior Civil Engineer

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Considering Intention to Levy and Collect Assessments for the Parcel Map 14-02 (Doo) Landscaping, Lighting, and Street Maintenance Benefit Assessment District, Subdivision Project No. 14-47

2. DISCUSSION OF ISSUE:

This item is the second resolution in the formation of a benefit assessment district for the Parcel Map 14-02 (Doo) subdivision located on Tuolumne Road in the street east of N. Berkeley Avenue and west of Carmichael Way. The consent to levy assessments form has been signed by the property owner's, Quong Doo and Jennie Doo authorizing the City Engineer to act as the Engineer of Work in the proceedings. The City Engineer then determines the cost of improvements and/or maintenance of the subdivision landscaping, street lighting, and streets. The Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 directs the Engineer of Work to produce an Engineer's Report which details the annual costs to each individual lot in the subdivision which is collected on property taxes.

The purpose of the assessment district is to ensure that this new subdivision pays for its own maintenance and operation of the streetlights, landscape maintenance, street sweeping, and future slurry seals on the subdivision streets. By forming this district the developer proceeds to construct the subdivision and places no additional impacts on existing city funds that maintain streets, lighting, and landscaping.

3. BASIS FOR RECOMMENDATION:

A. Staffs recommendation is based on laws governing the provision of funding basic improvements in a subdivision such as maintenance of landscaping foliage, street light repair, and street maintenance or repair.

B. This benefit funding is maintained and tracked by staff. The funds that are collected from this subdivision will pay for its impacts on city street lighting, street sweeping, street slurry seals, and landscaping, so as to not affect existing city funds.

Strategic Plan Initiative: F. POLICY INITIATIVE – INTELLIGENT, PLANNED MANAGED GROWTH:

Goal(s): 1) c. Ensure that all new growth pays for itself (Assessment Districts, CFF/PAF, CFD)

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact: The first year annual assessment collection from this subdivision will be $727.18. Annual assessments are tied to the Engineering News Record (ENR) index and will be adjusted accordingly.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

Not applicable.

7. ALTERNATIVES:

A. Deny the resolution to consider the intention to levy and collect assessments for this assessment district. City staff does not recommend this alternative, however, because maintenance costs from this subdivision would then impact other city funds.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF CONSIDERING INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR THE PARCEL MAP 14-02 (DOO) LANDSCAPING, LIGHTING, AND STREET MAINTENANCE BENEFIT ASSESSMENT DISTRICT, SUBDIVISION PROJECT NO. 14-47	}	**RESOLUTION NO. 2014-**

WHEREAS, the City Council of the City of Turlock intends to levy and collect assessments within the Parcel Map 14-02 (Doo) Landscaping, Lighting and Street Maintenance Benefit Assessment District during the fiscal year 2014-2015 pursuant to the Landscaping and Lighting Act of 1972, and the Benefit Assessment Act of 1982. The area of land to be assessed is located within the City of Turlock, County of Stanislaus, State of California; and

WHEREAS, the improvements to be made in this assessment district are generally described as follows, with no substantial changes to approved improvements:

The maintenance and replacement of street trees, plants, vegetation, sprinkler systems, rear yard wall adjacent to or within the public right-of-way, street lighting, streets, improvements and appurtenances adjacent to or within the public right of way on Tuolumne Blvd. in the street east of N. Berkeley Avenue and west of Carmichael Way included in Parcel Map 14-02 (Doo), a subdivision of Assessor's Parcel Number 073-036-062, County of Stanislaus, State of California; and

WHEREAS, in accordance with the City Council's resolution initiating proceedings, the City Engineer has filed with the City Clerk the report required by the Landscaping and Lighting Act of 1972. Said Engineer's Report is hereby approved as filed. All interested persons are referred to that report for a full and detailed description of the improvements, the boundaries of the assessment district, and the proposed assessments upon assessable lots and parcels within the assessment district; and

WHEREAS, on Tuesday, the 13th day of January, 2015, at the hour of 6:00 p.m., prevailing local time, the City Council of the City of Turlock will conduct a public hearing on the question of the levy of the proposed annual assessment. The meeting will be held in the Yosemite Room on the 2nd floor of City Hall at 156 S. Broadway, in Turlock, California.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby intend to levy and collect assessments for the Parcel Map 14-02 (Doo) Landscaping, Lighting, and Street Maintenance Benefit Assessment District.

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to give the notice of hearing required by the Landscaping and Lighting Act of 1972.

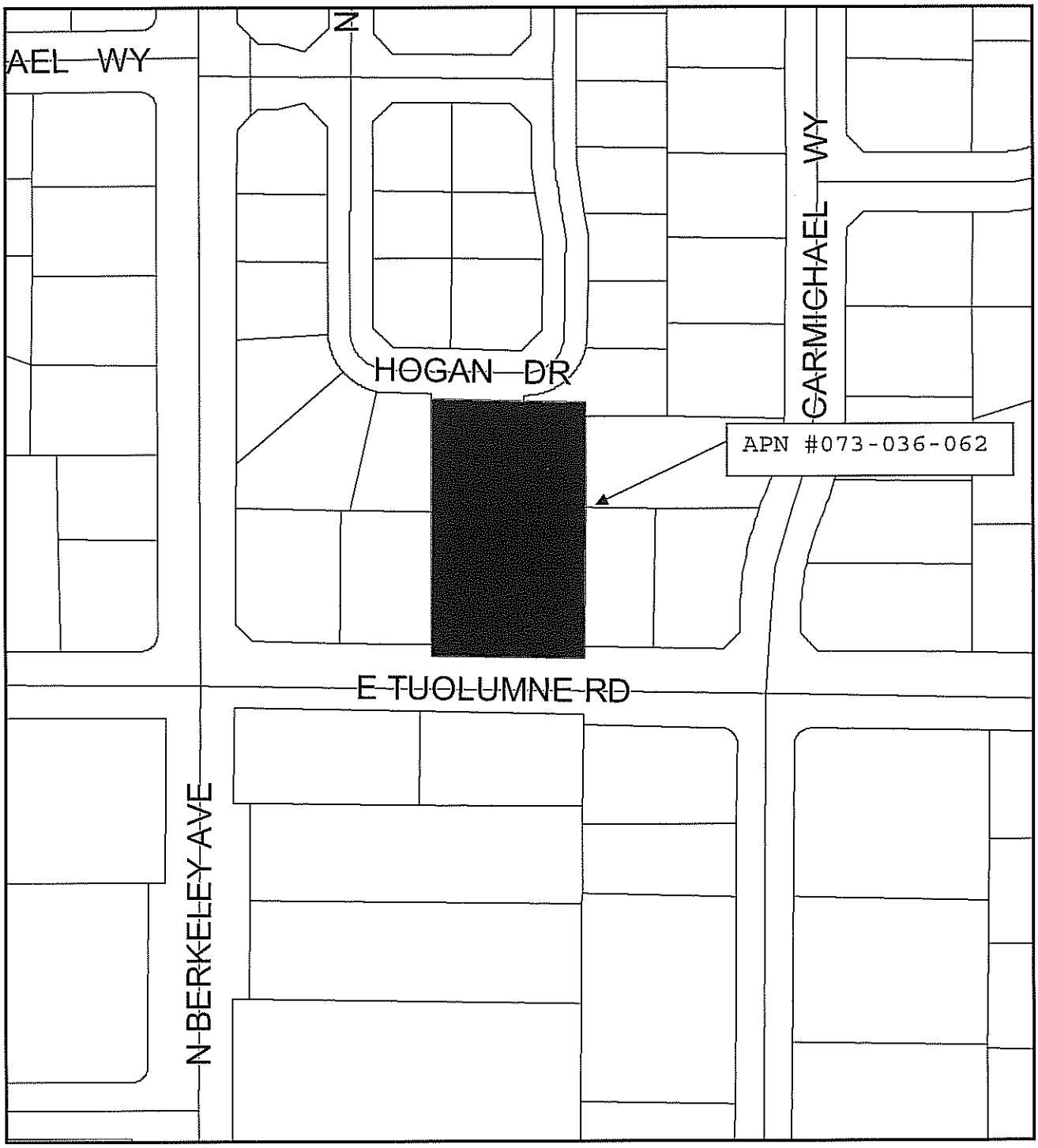
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

SITE MAP
Of
PARCEL MAP 14-02 (DOO)



5G

Council Synopsis

December 09, 2014

From: Michael G. Pitcock, PE
Director of Development Services / City Engineer

Prepared by: Alfonso Zepeda, Senior Engineering Technician

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Accepting improvements for City Project No. 14-51, "901 Hedstrom Road Curb Return Repair," and authorizing the City Engineer to file a Notice of Completion

2. DISCUSSION OF ISSUE:

On October 14, 2014, staff awarded a contract in the amount of $16,362.90 to Haney Concrete of Turlock, California for "901 Hedstrom Road Curb Return Repair."

All work has been completed in accordance with the project specifications and plans. Staff brings forth a notice of completion for your approval.

3. BASIS FOR RECOMMENDATION:

A) City Municipal Code requires that the City Council authorize the City Engineer to sign the Notice of Completion.

Strategic Plan Initiative: D) MUNICIPAL INFRASTRUCTURE

Goal(s): a-iv Streets/Roadways – Identify avenues to address current deficiencies (general fund, grants, ballots initiatives, assessment district)

4. FISCAL IMPACT / BUDGET AMENDMENT:

Funds are available in the construction project line item 217-50-511.51270, "Construction Projects." No additional appropriation or budget amendment is needed.

NOTE: No General Fund money will be used for this project.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

This Action by Council does not modify the CEQA finding that Council made on October 14, 2014, and therefore no determination is needed.

7. ALTERNATIVES:

A. Not approve the Notice of Completion. This option is not recommended by Staff because the work was completed in accordance with the standards and specifications provided by the City.

CITY OF TURLOCK

FINAL QUANTITIES

901 Hedstrom Road Curb Return Repair **Project No. 14-51**

Item No.	Item Description	Unit of Measure	Contractor's Unit Price	Final Actual Quantities	Final Actual Amount	Bid Quantities	Bid Amount	Total Difference
1	Best Management Practices (BMP's)	LS	$75.00	1	$75.00	1	$75.00	$0.00
2	Saw Cutting	LS	$500.00	1	$500.00	1	$500.00	$0.00
3	Removal of Existing Improvements	LS	$1,800.00	1	$1,800.00	1	$1,800.00	$0.00
4	Dig out Near Sta. 20+90	LS	$1,800.00	1	$1,800.00	1	$1,800.00	$0.00
5	Earthwork	LS	$1,800.00	1	$1,800.00	1	$1,800.00	$0.00
6	Minor Concrete (Curb Return)	EA	$1,780.00	1	$1,780.00	1	$1,780.00	$0.00
7	Minor Concrete (Curb and Gutter)	LF	$35.00	48	$1,680.00	48	$1,680.00	$0.00
8	Minor Concrete (Cross Gutter Reconstruct)	LS	$3,200.00	1	$3,200.00	1	$3,200.00	$0.00
9	Aggregate Base	CY	$60.00	7	$420.00	7	$420.00	$0.00
10	Hot Mix Asphalt	TON	$292.00	9	$2,628.00	9	$2,628.00	$0.00
11	Crack Seal	LS	$430.00	1	$430.00	1	$430.00	$0.00
12	12" White Stripe	LF	$16.66	15	$249.90	15	$249.90	$0.00
	SUB-TOTAL CONTRACT ITEMS =				**$16,362.90**		**$16,362.90**	**$0.00**
C.O. #	***CHANGE ORDERS***							
	SUB-TOTAL CHANGE ORDER ITEMS =				**$0.00**		**$0.00**	**$0.00**
	TOTAL PROJECT =				**$16,362.90**		**$16,362.90**	**$0.00**

RECORDED AT THE REQUEST OF:
CITY OF TURLOCK

WHEN RECORDED MAIL TO:
CITY OF TURLOCK
Office of the City Clerk
156 S. Broadway, Suite 230
TURLOCK CA 95380-5454

NOTICE OF COMPLETION
CITY PROJECT NO. 14-51
901 HEDSTROM ROAD CURB RETURN REPAIR

Notice is hereby given that work on the above-referenced project located on City right-of-way at 901 Hedstrom Road, was completed by the undersigned agency on December 9, 2014. The contractor of work Haney Concrete, P O Box 205, Turlock, CA 95380, and the owner is the City of Turlock, 156 South Broadway, Suite 150, Turlock, California, 95380. Kindly refer to said Project Number on all communications relating to this work.

Date: _____ _____
(Signature- Michael G. Pitcock, PE, Director of Development Services/ City Engineer, Owner's Agent)

VERIFICATION

I, the undersigned, Development Services Director/ City Engineer of the owner of the aforesaid interest, have read this notice; I know and understand the contents thereof; and the facts stated therein are true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

CITY OF TURLOCK

_____
MICHAEL G. PITCOCK, PE
DEVELOPMENT SERVICES DIRECTOR/CITY ENGINEER
OWNER'S AGENT

Executed on December 10, 2014 at Turlock, California, Stanislaus County

5H

Council Synopsis

December 9, 2014

From: Michael Cooke, Municipal Services Director

Prepared by: Garner R. Reynolds, Regional Affairs Manager

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving a Professional Services Agreement between the City of Turlock and Larry Walker and Associates for National Pollutant Discharge Elimination System Permit Renewal and Compliance Support Services for the Turlock Regional Water Quality Control Facility, in an amount not to exceed $50,000, from Fund 410-51-530.43316 "NPDES Permit Studies"

2. DISCUSSION OF ISSUE:

The City of Turlock owns and operates a Regional Water Quality Control Facility (RWQCF) providing tertiary treatment of wastewater for the City of Turlock, a portion of Ceres, and the Community Service Districts of Denair and Keyes. The California Regional Water Quality Control Board, Central Valley Region, (Regional Board) establishes Waste Discharge Requirements (WDR) for the RWQCF treated wastewater before it may be discharged to surface waters of the State. On January 28, 2010 the Regional Board adopted WDR Order No. R5-2010-0002 for waste discharge requirements for the RWQCF during the term of the permit. The WDR expires on January 1, 2015, and requires the City file an application for new waste discharge requirements 180 days prior to the expiration date. The application was submitted on June 5, 2014 and deemed complete on June 9, 2014.

The permitting process is quite lengthy and includes review of the Administrative Drafts, Tentative Order, late revisions and a public hearing process. In addition, the technical level of review and analysis related to the effluent limitations, monitoring requirements, total maximum daily loading requirements, and special studies necessitate assistance from recognized industry experts such as Larry Walker Associates.

A proposal for this work has been submitted by Larry Walker Associates for $39,572.00, adding in a contingency in the amount of $10,427 for a total not-to-exceed amount of $50,000.00. Tasks included in the proposal (Exhibit A) are Review of Administrative Draft, Review of Tentative Order, Prepare Comments

for the Public Hearing, and Technical and Analytical review. The work is estimated to be completed within six (6) months from the date of the authorization to proceed.

3. BASIS FOR RECOMMENDATION:

A. The City is required to apply for and obtain a new NPDES permit in order to continue to operate the RWQCF.

B. Larry Walker Associates has extensive experience in the technical and analytical review of these permits.

Strategic Plan Initiative B. FISCAL RESPONSIBILITY

Goal(s): c. Ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions.

Strategic Plan Initiative D. MUNICIPAL INFRASTRUCTURE

Goal(s): a-vii. Identify avenues to address current deficiencies - Water and Sewer.

b-iii. Address Growth-Related Issues - Wastewater.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact:
$50,000.00 from Fund 410-51-530.43316 "NPDES Permit Studies"
(Includes a $10,000 contingency)

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Do not approve the agreement with Larry Walker Associates. This alternative is not recommended. Obtaining a new NPDES Permit for the RWQCF is critical for the continued economic growth in Turlock. In addition, Larry Walker Associates is duly qualified to perform this work.

AGREEMENT FOR SPECIAL SERVICES
between
CITY OF TURLOCK
and
Larry Walker Associates
for
NPDES Permit Renewal and Compliance Support Assistance
CITY CONTRACT NO. 14-097

THIS AGREEMENT is made this 9th day of December, 2014, by and between the **CITY OF TURLOCK**, a municipal corporation of the State of California hereinafter referred to as "CITY" and **LARRY WALKER ASSOCIATES**, a Corporation, hereinafter referred to as "CONSULTANT."

W I T N E S S E T H:

WHEREAS, in accordance with California Government Code §37103, CITY has a need for National Pollutant Discharge System Permit Renewal and Compliance Support Assistance; and,

WHEREAS, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as "Services."

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF WORK: CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and the specifications attached hereto as Exhibit A. CONSULTANT shall provide Services that are acceptable to CITY.

2. PERSONNEL AND EQUIPMENT: CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably require to accomplish said Services.

3. SAFETY REQUIREMENT: All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.

4. COMPENSATION: CITY agrees to pay CONSULTANT in accordance with Exhibit A as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit A and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In addition, due to the unknown variability of the future studies that may be required by the State there shall be a contingency of 25% ($9,893.25) added to the contract price as shown in Exhibit A. In no event shall the sum of this Agreement exceed forty nine thousand, four-hundred and sixty-six and 25/100^{ths} Dollars ($49,466.25). CONSULTANT agrees that compensation shall be paid in the manner and at the times set forth below:

(a) Invoices: CONSULTANT shall submit dated invoices to CITY specifying the date, location and service rendered, and the charge therefor.

(b) Payment:

(1) All payments by CITY shall be made in arrears, after satisfactory service, as determined and approved by CITY, has been provided. Payment shall be made by CITY no more than thirty (30) days from CITY's receipt of invoice.

(2) CITY shall normally pay by voucher or check within ten (10) working days after each meeting at which payments can be authorized, provided that CITY receives the invoice at least five (5) working days prior to CITY's meeting date.

(3) If CITY disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, CITY may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by CITY. CITY shall assign a sequential reference number to each deletion.

(4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.

(5) CITY reserves the right to only pay for such services rendered to the satisfaction of CITY.

5. TERM OF AGREEMENT: This Agreement shall become effective upon execution and shall continue in full force and effect for a period of one (1) year beginning December 15, 2014 and ending December 31, 2015, subject to CITY's availability of funds.

6. INSURANCE: CONSULTANT shall not commence work under this Agreement until CONSULTANT has obtained CITY's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 20 10 and 20 37), to be approved by the City of Turlock.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Errors and Omissions/Professional Liability Insurance.

(b) Minimum Limits of Insurance: CONSULTANT shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: $1,000,000 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: as statutorily required by the State of California. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

(4) Errors and Omissions/Professional Liability: $1,000,000 per claim.

(c) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) CONSULTANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(d) Other Insurance Provisions: The commercial general liability policy shall contain or be endorsed to contain the following provisions:

(1) CITY, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance (CG 20 10 and CG 20 37 or their equivalent), or as a separate Owners Protective Liability policy providing both ongoing operations and completed operations.

(2) For any claims related to this project, CONSULTANT's insurance coverage shall be primary insurance as respects CITY and any insurance or self-insurance maintained by CITY shall be excess of CONSULTANT's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to CITY under any of the required insurance coverages, the insurer, broker/producer, or CONSULTANT shall provide CITY with thirty (30) days' prior written notice of such action.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(f) Verification of Coverage: CONSULTANT shall furnish CITY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT'S obligation to provide them. CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(g) Waiver of Subrogation: With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of CITY for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(h) Subcontractors: CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

7. INDEMNIFICATION: CONSULTANT shall indemnify, defend, and hold harmless CITY and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

8. INDEPENDENT CONTRACTOR RELATIONSHIP: All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.

CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT'S assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT'S personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. VOLUNTARY TERMINATION: CITY may terminate this Agreement without cause or legal excuse by providing thirty (30) days' written notice to CONSULTANT.

10. TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by CITY for Default of CONSULTANT. Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform

required services or duties, willful destruction of CITY's property by CONSULTANT, dishonesty or theft.

(c) Termination by CONSULTANT for Default of CITY. Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by CITY for Change of CONSULTANT'S Tax Status. If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If CITY so requests, and at CITY's cost, CONSULTANT shall provide sufficient oral or written status reports to make CITY reasonably aware of the status of CONSULTANT'S work on the project. Further, if CITY so requests, and at CITY's cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

11. CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

12. NONDISCRIMINATION: In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race religion, color, sex, or national origin. CONSULTANT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and

selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

13. TIME: Time is of the essence in this Agreement.

14. ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering into and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

15. OBLIGATIONS OF CONSULTANT: Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

16. OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the CITY, and may be used by CITY as it may require without any additional cost to CITY. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of CITY.

17. NEWS AND INFORMATION RELEASE: CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

18. INTEREST OF CONSULTANT: CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.

19. AMENDMENTS: Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges

CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

20. PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

21. CERTIFIED PAYROLL REQUIREMENT: For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of Section 1776 of the California Labor Code, regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

22. PARTIAL INVALIDITY: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

23. WAIVER: The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

24. AUDIT: CITY's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT'S charges to CITY under this Agreement.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

25. GOVERNING LAW: This Agreement shall be governed according to the laws of the State of California.

26. HEADINGS NOT CONTROLLING: Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

27. COMPLIANCE WITH LAWS: CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

28. CITY BUSINESS LICENSE: CONSULTANT will have a City of Turlock business license.

29. ASSIGNMENT: This Agreement is binding upon CITY and CONSULTANT and their successors. Except as otherwise provided herein, neither CITY nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

30. RECORD INSPECTION AND AUDIT: CONSULTANT shall maintain adequate

records to permit inspection and audit of CONSULTANT's time and material charges under this Agreement. CONSULTANT shall make such records available to CITY during normal business hours upon reasonable notice. Such records shall be turned over to CITY upon request.

31. EXCLUSIVE USE: Services provided within the scope of this Agreement are for the exclusive use of CITY and CONSULTANT agrees that, until final approval by CITY, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of CITY.

32. EMPLOYMENT OF CITY OFFICIAL OR EMPLOYEE: CONSULTANT shall employ no CITY official or employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 *et seq.*; nor shall CITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

33. NOTICE: Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

for CONSULTANT: **LARRY WALKER ASSOCIATES**
ATTN: BRIAN LAURENSON
707 FOURTH STREET, SUITE 200
DAVIS, CA 95616
PHONE: (530) 753-6400
FAX: (530) 753-7030

for CITY: **CITY OF TURLOCK**
ATTN: MICHAEL COOKE
MUNICIPAL SERVICES DEPARTMENT
156 SOUTH BROADWAY, SUITE 270
TURLOCK, CALIFORNIA 95380-5454
PHONE: (209) 668-5599, EXT 4418
FAX: (209) 668-5695

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

CITY OF TURLOCK, a municipal corporation

By: _____
Roy W. Wasden, City Manager

Date: _____

APPROVED AS TO SUFFICIENCY:

By: _____
Michael Cooke, Municipal Services Director

APPROVED AS TO FORM:

By: _____
Phaedra A. Norton, City Attorney

ATTEST:

By: _____
Kellie E. Weaver, City Clerk

_____

By: _____

Title: _____

Print name: _____

Date: _____

EXHIBIT A.

707 Fourth Street, Suite 200
Davis, CA 95616

530.753.6400
530.753.7030 fax

www.lwa.com

LARRY WALKER ASSOCIATES

November 5, 2014

Garner Reynolds
City of Turlock
Municipal Services
156 South Broadway, Suite 112
Turlock, CA 95380
via email only

SUBJECT: PROPOSAL FOR NPDES PERMIT RENEWAL AND COMPLAIANCE SUPPORT ASSISTANCE

Dear Mr. Reynolds:

Pursuant to your request, Larry Walker Associates (LWA) is submitting this proposal to assist the City of Turlock (City) with NPDES permit renewal support for the City's Water Quality Control Facility (WQCF) discharge to the San Joaquin River. Our proposed scope of work and estimated costs are presented below and in Attachment A.

SCOPE OF WORK

LWA will review revisions to circulated versions of the Administrative Draft, Tentative Order, and late revisions for the adoption hearing and prepare comments on technical issues related to effluent limitations, monitoring requirements, incorporation TMDL requirements, recent changes in Central Valley Regional Water Quality Control Board permitting approaches, and any other specific technical and policy issues identified by the City or the City's permit assistance attorney. This scope or work will include review of effluent limitation calculations and review of the City's most recent data to identify compliance issues and to prepare the required infeasibility analysis to justify interim effluent limitations. The assessment would also take into consideration the compliance strategy considerations related to the North Valley Regional Recycled Water Program (NVRRWP).

LWA will recommend modifications to sampling and analysis procedures including assessments of sampling frequency and analytical methods based on a review of the Tentative and Adopted Orders and related compliance based on WQCF-provided data. LWA will provide additional support, as directed by the City, for preparation of Regional Board permit adoption hearings.

Each of the review drafts (Administrative, Tentative Order, and Adoption Hearing late changes) will include preparation or a comment letter or summary that consolidates comments from City staff, legal review, and LWA's technical review. The Attachment A cost estimate includes an indication of the number of expected meetings and/or teleconferences in support of this work.

I have included an optional line item for general compliance strategy support for as-needed follow-up activities and compliance strategy consulting. LWA would provide this optional assistance as directed by the City.

ESTIMATED COSTS

We propose to perform the above tasks on a time and materials basis in accordance with our standard billing rate schedule, which is updated annually. Attachment A is the proposed budget, which includes detail on the level of effort for each task. We do expect that that individual task costs may vary depending on the allowed review time and when new issues are identified, but do not expect the total project cost to change unless the adoption time is changed dramatically (e.g., adoption is delayed by a year). We also expect some costs be offset by parallel efforts we are performing for the NVRRWP. The proposed budget considers some of these efficiencies and will further maximize cost savings opportunities between the two projects.

Please let me know (530-753-6400) if you have any questions or if you need additional information.

Yours truly,

Brian M. Laurenson, P.E.
Vice President

Attachment A. Cost Estimate for NPDES Renewal Services and Compliance Support

Task No.	Description	Brian Laurenson	Airy Krich-Brinton	Michelle Benson	Total Labor	Total Direct	Total
1	Review Administrative Draft	14	14	1.5	$6,160	$-	$6,160
	Review Draft	*4*	*12*	*1.5*			
	Prepare Comment Letter	*8*	*2*	*0*			
	Teleconference	*2*	*0*	*0*			
2	Review Tentative Order	30	28	3	$12,840	$-	$12,840
	Review Draft	*8*	*24*	*3*			
	Prepare Comment Letter	*16*	*4*	*0*			
	Teleconferences (3)	*6*	*0*	*0*			
3	Prepare Adoption Hearing Comments	14	12	1	$5,760	$33	$5,793
	Prepare portion of statement/presentation	*8*	*12*	*1*			
	Teleconference	*2*	*0*	*0*			
	Attend Hearing	*4*	*0*	*0*			
4	Compliance Strategy (optional)	40	24	3	$14,780	$-	$14,780
	Grand Total	**98**	**78**	**8.5**			**$39,573**

5I

Council Synopsis

December 9, 2014

From: Michael Cooke, Municipal Services Director

Prepared by: Fallon Martin, Staff Services Analyst
Garner R. Reynolds, Regulatory Affairs Manager

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving a Professional Services Agreement between the City of Turlock and WGR Southwest, Inc., for Support Services with Phase II Small MS4 NPDES Permit Compliance for Year 2 as required by the State Water Resources Control Board, in an amount not to exceed $20,000 from Fund 410-51-532.47500 "NPDES Phase II MS4 Storm Compliance"

2. DISCUSSION OF ISSUE:

The US EPA and the State Water Resources Control Board (SWRCB) have determined that storm water discharges and urban runoff are significant sources of water pollution that can threaten aquatic life and public health. The SWRCB regulates storm water discharges and urban runoff from municipal sources in California. In 2013, the SWRCB adopted the Phase II Small Municipal Separate Storm Sewer System (Small MS4) General Permit that specifically required the City of Turlock to comply with these regulations.

In July 2013, Turlock complied with the Small MS4 General Permit and filed a Notice of Intent and a Guidance Document that specifies actions and activities over the next five (5) years necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable and for compliance with the General Permit. The regulations specifically target the following areas during the five years: Public Education and Outreach, Public Participation/Involvement, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post-Construction Runoff, Pollution Prevention/Good Housekeeping, Post Construction Storm Water Management, Program Effectiveness Assessment, Water Quality Monitoring, and Annual Reporting.

The Year 2 tasks require the development of the following programs: Education Outreach and Involvement Program, Illicit Discharge Program, Pollution Prevention Program, Landscape Design and Maintenance Program, Site Design Measures, Water Quality and Sampling Program, as well as an Effectiveness

and Improvement Program. As a result, the City has a need for specific technical and analytical assistance to develop these programs and ensure compliance with the permit. A proposal for these services has been submitted by WGR Southwest, Inc. in the amount of $18,181.00, adding a 10% contingency in the amount of $1,818.00 for a total amount not-to-exceed $20,000.00. The 10% contingency is for potential changes in the tasks, such as the sampling and monitoring work. The Regional Board is currently modifying what the City will have to comply with by June 30, 2015.

3. BASIS FOR RECOMMENDATION:

A. The City is required to comply with the US EPA and the SWRCB to accomplish tasks set forth in Year 2 of Phase II Small MS4 General Permit.

B. WGR Southwest, Inc. has extensive experience in technical and analytical review as well as collaborating with many municipalities within our region to assist with the compliance for Year 2 of Phase II Small MS4 NPDES Permits.

Strategic Plan Initiative B. FISCAL RESPONSIBILITY

Goal(s): c. Ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions.

Strategic Plan Initiative D. MUNICIPAL INFRASTRUCTURE

Goal(s): a-iii. Identify avenues to address current deficiencies – Storm Drainage.

b-vi. Address Growth-Related Issues – Storm Water management.

c-Iii. Maintain and Execute Municipal Services Strategic Plan – Storm Water.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact:
$20,000.00, which includes a 10% contingency from Fund 410-51-532.47500 "NPDES Phase II Small MS4 Storm Compliance"

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Do not approve the agreement with WGR Southwest, Inc. This alternative is not recommended. The City is mandated to comply with requirements set forth by the US EPA and SWRCB as related to Phase II Small MS4 NPDES. If these requirements are not met, the City will be in violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. In addition, WGR Southwest, Inc. is duly qualified to perform this work.

AGREEMENT FOR SPECIAL SERVICES
between
CITY OF TURLOCK
and
WGR Southwest, Inc.
for
Support Services for Phase II MS4 NPDES Permit
CITY CONTRACT NO. 14-095

THIS AGREEMENT is made this 9th day of December, 2014, by and between the **CITY OF TURLOCK**, a municipal corporation of the State of California hereinafter referred to as "CITY" and **WGR Southwest, Inc.**, a consultant, hereinafter referred to as "CONSULTANT."

W I T N E S S E T H:

WHEREAS, in accordance with California Government Code §37103, CITY has a need for Support Services with Phase II MS4 NPDES Permit Compliance for Year 2 as required by the State Water Resources Control Board; and

WHEREAS, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as "Services."

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF WORK: CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and the specifications attached hereto as Exhibit A. CONSULTANT shall provide Services that are acceptable to CITY.

2. PERSONNEL AND EQUIPMENT: CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably require to accomplish said Services.

3. SAFETY REQUIREMENT: All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.

OK for Agenda

4. COMPENSATION: CITY agrees to pay CONSULTANT in accordance with Exhibit A as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit A and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In no event shall the sum of this Agreement exceed nineteen thousand nine hundred ninety nine dollars and 0/100^{ths} Dollars ($19,999.00). CONSULTANT agrees that compensation shall be paid in the manner and at the times set forth below:

(a) Invoices: CONSULTANT shall submit dated invoices to CITY specifying the date, location and service rendered, and the charge therefor.

(b) Payment:

(1) All payments by CITY shall be made in arrears, after satisfactory service, as determined and approved by CITY, has been provided. Payment shall be made by CITY no more than thirty (30) days from CITY's receipt of invoice.

(2) CITY shall normally pay by voucher or check within ten (10) working days after each meeting at which payments can be authorized, provided that CITY receives the invoice at least five (5) working days prior to CITY's meeting date.

(3) If CITY disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, CITY may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by CITY. CITY shall assign a sequential reference number to each deletion.

(4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.

(5) CITY reserves the right to only pay for such services rendered to the satisfaction of CITY.

5. TERM OF AGREEMENT: This Agreement shall become effective upon execution and shall continue in full force and effect for a period of twelve months (12) beginning December 9, 2014 and ending December 9, 2015, subject to CITY's availability of funds and may be renewed for two (2) additional one-year terms, on the same terms and conditions, upon agreement in writing by both parties.

6. INSURANCE: CONSULTANT shall not commence work under this Agreement until CONSULTANT has obtained CITY's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 20 10 for ongoing

operations and 20 37 for products/completed operations), to be approved by the City of Turlock.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Errors and Omissions/Professional Liability Insurance.

(b) Minimum Limits of Insurance: CONSULTANT shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: $1,000,000 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: as statutorily required by the State of California. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

(4) Errors and Omissions/Professional Liability: $1,000,000 per claim.

(c) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) CONSULTANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(d) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:

(1) CITY, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance (at least as broad as CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing operations and completed operations coverage.

(2) For any claims related to this project, CONSULTANT's insurance coverage shall be primary insurance as respects CITY and any insurance or self-insurance maintained by CITY shall be excess of CONSULTANT's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that

reduces or restricts the insurance coverage afforded to CITY under this Agreement, the insurer, broker/producer, or CONSULTANT shall provide CITY with thirty (30) days' prior written notice of such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(f) Verification of Coverage: CONSULTANT shall furnish CITY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT'S obligation to provide them. CITY reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(g) Waiver of Subrogation: With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of CITY for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(h) Subcontractors: CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

7. INDEMNIFICATION: CONSULTANT shall indemnify, defend, and hold harmless CITY and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

8. INDEPENDENT CONTRACTOR RELATIONSHIP: All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.

CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT'S assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT'S personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. VOLUNTARY TERMINATION: CITY may terminate this Agreement without cause or legal excuse by providing thirty (30) days' written notice to CONSULTANT.

10. TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by CITY for Default of CONSULTANT. Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of CITY's property by CONSULTANT, dishonesty or theft.

(c) Termination by CONSULTANT for Default of CITY. Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date

shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by CITY for Change of CONSULTANT'S Tax Status. If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If CITY so requests, and at CITY's cost, CONSULTANT shall provide sufficient oral or written status reports to make CITY reasonably aware of the status of CONSULTANT'S work on the project. Further, if CITY so requests, and at CITY's cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

11. CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

12. NONDISCRIMINATION: In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race religion, color, sex, or national origin. CONSULTANT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

13. TIME: Time is of the essence in this Agreement.

14. ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all

previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering into and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

15. OBLIGATIONS OF CONSULTANT: Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

16. OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the CITY, and may be used by CITY as it may require without any additional cost to CITY. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of CITY.

17. NEWS AND INFORMATION RELEASE: CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

18. INTEREST OF CONSULTANT: CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.

19. AMENDMENTS: Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

20. PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

21. CERTIFIED PAYROLL REQUIREMENT: For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of Section 1776 of the California Labor Code, regarding payroll records, and shall

require its subconsultants and subcontractors to comply with that section as may be required by law.

22. PARTIAL INVALIDITY: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

23. WAIVER: The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

24. AUDIT: CITY's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT'S charges to CITY under this Agreement.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

25. GOVERNING LAW: This Agreement shall be governed according to the laws of the State of California.

26. HEADINGS NOT CONTROLLING: Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

27. COMPLIANCE WITH LAWS: CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

28. CITY BUSINESS LICENSE: CONSULTANT will have a City of Turlock business license.

29. ASSIGNMENT: This Agreement is binding upon CITY and CONSULTANT and their successors. Except as otherwise provided herein, neither CITY nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

30. RECORD INSPECTION AND AUDIT: CONSULTANT shall maintain adequate records to permit inspection and audit of CONSULTANT's time and material charges under this Agreement. CONSULTANT shall make such records available to CITY during normal business hours upon reasonable notice. Such records shall be turned over to CITY upon request.

31. EXCLUSIVE USE: Services provided within the scope of this Agreement are for the exclusive use of CITY and CONSULTANT agrees that, until final approval by CITY, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of CITY.

32. EMPLOYMENT OF CITY OFFICIAL OR EMPLOYEE: CONSULTANT shall employ no CITY official or employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 *et seq.*; nor shall CITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

33. NOTICE: Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

for CONSULTANT: **WGR Southwest, Inc.**
11780 N Hwy 99
Lodi CA 95240
PHONE: (209) 334-5363
FAX: (209) 334-5374

for CITY: **CITY OF TURLOCK**
ATTN: Michael Cooke
Municipal Services Department
156 SOUTH BROADWAY, SUITE 270
TURLOCK, CALIFORNIA 95380-5454
PHONE: (209) 668-5599 Ext. 4418
FAX: (209) 668-5695

34. EXTENSION OF AGREEMENT: CITY may elect to extend this Agreement for two (2) additional one-year terms, on the same terms and conditions, upon providing written notice to CONSULTANT thirty (30) days prior to the expiration of this Agreement. On each anniversary date, CONSULTANT will be allowed to increase prices. Increases may not exceed increases in the San Francisco-Oakland Consumer Price Index for all urban consumers or percentage increases in CONSULTANT's published prices, whichever is lower. In all cases, CITY may cancel the contract if a requested price increase is not acceptable.

35. PERFORMANCE BY KEY EMPLOYEE: CONSULTANT has represented to CITY that WGR Southwest, Inc. will be the person primarily responsible for the performance of the services referred to in this Agreement. CITY has entered into this Agreement in reliance on that representation by CONSULTANT. CONSULTANT therefore agrees that one hundred percent (100%) or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

CITY OF TURLOCK, a municipal corporation

By: _____
Roy W. Wasden, City Manager

Date: _____

APPROVED AS TO SUFFICIENCY:

By: _____
Michael Cooke, Municipal Services Director

APPROVED AS TO FORM:

By: _____
Phaedra A. Norton, City Attorney

ATTEST:

By: _____
Kellie E. Weaver, City Clerk

_____

By: _____

Title: _____

Print name: _____

Date: _____

WGR
Not Your Typical Consultant

EXHIBIT A

November 6, 2014

Mr. Garner R. Reynolds
Regulatory Affairs Manager
City of Turlock
156 S. Broadway, Ste. 270
Turlock, CA 95380

RE: Proposal for Compliance Support for Year 2 of the Phase II MS4 NPDES Permit

Dear Mr. Reynolds,

WGR Southwest, Inc. (WGR) is pleased to provide you with this proposal to provide support for the City's Phase II MS4 NPDES Permit compliance program. The following is a summary of the **new** activities required by the current Phase II MS4 permit for Year 2, for which WGR is able to supply support for the City. In addition, WGR is providing a cost proposal for general compliance support and project management for the implementation of the Phase II MS4 Permit. This proposal is organized into the following sections:

Section A: *A list of Year 2 Permit-Required Tasks*
Section B: *General Compliance Support, Project Management, and Unit Cost Tasks*
Section C: *Collaboration Tasks*

Section A: Year 2 Permit-Required Tasks for July 1, 2014 – June 30, 2015:

The following is a detailed summary of the **new** activities required by the permit during Year 2 in accordance with the Phase II MS4 permit as extracted from the Guidance Document that was submitted last year by the MS4 to the State Water Board. Please remember that many of the activities required in the previous permit are required to continue until newer requirements become effective in this permit (e.g. you must continue to perform construction inspections, require post-construction design standards on applicable projects, and perform outreach as was performed under the previous permit.)

Permit Section and Element		Compliance Year	Recommended Approach
E.6	PROGRAM MANAGEMENT ELEMENT		
E.6.a	Legal Authority (update or create ordinance)		
E.6.b	Certification	2014-2015	*The City of Turlock has already adopted the new / revised ordinances. The only remaining task is for the City to certify that it has adequate legal authority to implement the permit.*

E.7	**EDUCATION AND OUTREACH PROGRAM**		
E.7.a	**Public Outreach and Education**		
	(a) Develop and implement comprehensive education and outreach program	2014 - 2015	*WGR is advocating that the City and other municipalities collaborate in the development of an Education & Outreach template that will be 80% complete and can be easily customized by each municipality. Please refer to Section C of this proposal. The City can customize the template plan using internal staff or WGR, as needed.*
	(d)Disseminate education materials to target audiences and translate as appropriate		
	(e)Utilize public input in developing outreach program		
	(g)Provide water efficient/ storm water friendly landscaping information		
	(h)Promote reporting of illicit discharges		
	(i)Provide pesticide/fertilizer application information		
	(j)Provide materials to school children		
	(k,l,m)Develop messaging to reduce discharges from organized car washes, mobile cleaning and pressure washing		
E.7.b.3	(a) Annual Permittee Staff Training		
	Biennial employee training		
E.8	**PUBLIC INVOLVEMENT AND PARTICIPATION PROGRAM**		
	Develop program with input of the public and implement	2014 - 2015	*The public involvement program will be developed in concept with the above described E&O program. As mentioned above, the City will need to customize the plan to incorporate City-specific public involvement opportunities. WGR can assist the City, as needed, to identify existing programs and events that can be used to meet this permit requirement.*
	(a) Develop Public Involvement strategy		
	(b) Consider Citizen Advisory Group		
	(c) Create Involvement Opportunities		
	(d) Ensure public can access info about program		
	(f) Engage in IRWMP or equivalent		
E.9	**ILLICIT DISCHARGE DETECTION AND ELIMINATION**		
E.9.a	**Outfall Mapping**	2014 - 2015	*These tasks will predominately be performed with MS4 staff. City staff have already performed the outfall mapping and inventory. We can provide guidance, develop procedures for sampling, and provide sample kits, as needed.*
	Create and maintain accurate outfall map including a site visit to each outfall		
E.9.b	**Illicit Discharge Source/Facility Inventory**		
	Create inventory of all industrial/commercial facilities and update annually		
E.9.c	**Field Sampling to Detect Illicit Discharges**		
	Sample any flowing outfalls while conducting E.9.a		
	Conduct follow up investigation within 72 hours if action levels exceeded		
E.9.d	**Illicit Discharge Detection and Elimination Source Investigations and Corrective Actions**		
	Develop written procedures for investigations and corrective actions		
	Once source of discharge is identified, require responsible party to correct within 72 hours of notification and verify with follow-up investigation		

	Conduct follow up investigation within 72 hours if action levels exceeded		
E.10	**CONSTRUCTION SITE STORM WATER RUNOFF CONTROL PROGRAM**		
E.10.c	**Construction Site Inspection and Enforcement**		
	Inspect construction sites	2014-2015	*Storm water compliance inspections of construction sites will need to be performed or supervised by a QSP. WGR can provide the QSP oversight to MS4 staff until they become QSPs or until the City's QSPs are trained. WGR can provide training, forms, and guidance to MS4 staff. Also, note that the construction inventory criteria changes with the newly required ordinances. The MS4 will need to determine how they are going to track the smaller projects that will now need to be included on the inventory. As an option we have included unit costs for WGR to perform the construction inspections in Section B of this proposal.*
E.11	**POLLUTION PREVENTION/GOOD HOUSEKEEPING FOR PERMITTEE OPERATIONS PROGRAM**		
E.11.a	**Inventory of Permittee-Owned and Operated Facilities**		
	Develop and maintain inventory of all permittee owned or operated facilities that are a potential threat to water quality		*These tasks will most likely be performed predominately by MS4 staff. WGR can provide the procedures for assessing and prioritizing maintenance of storm drain systems. WGR will work with MS4 staff and provide guidance as needed.*
E.11.b	**Map of Permittee-owned or Operated Facilities**		
	Develop a map of inventoried facilities	2014-2015	
E.11.f	**Storm Drain System Assessment and Prioritization**		
	Implement procedures to assess and prioritize maintenance of storm drain system infrastructure. Assign a priority to each facility based on accumulation of sediment, trash and/or debris		
E.11.j	**Landscape Design and Maintenance**		
	Implement a landscape design and maintenance program to reduce the amount of water, pesticides and fertilizers used by Permittees		*WGR has prepared an overview presentation of the requirements of this area and it would be most likely very helpful for applicable MS4 staff (i.e. Public Works, Parks & Rec) to see the presentation. Much of this program will be implemented by MS4 staff, but WGR can help clarify the permit requirements and provide direction for compliance with these permit requirements.*
	Evaluate use of pesticides, herbicides and fertilizers		
	Implement best practices to reduce pesticides and fertilizers	2014-2015	
	Proper disposal of unused chemicals		
	Evapo-based irrigation and rain sensors		
	Record amount of chemical usage		

E.12	**POST CONSTRUCTION STORMWATER MANAGEMENT PROGRAM**		
E.12.a	**Post-Construction Treatment Measures**		
	Regulate development to comply with the following sections, E.12.b through E.12.j		
E.12.b	**Site Design Measures**		
	Require implementation of site design measures on projects that create or replace 2,500-5,000 SF impervious area (incl single family homes)		
E.12.c	**Regulated Projects**		
	Implement standards on projects that create or replace >5,000 SF impervious area, aka Regulated Projects		
	Road and Utility Projects creating 5,000 sf or more that are public or fall under planning authority of a MS4 shall comply with LID except 85th % can follow EPA Guidance on green infrastructure		
E.12.d.	**Source Control Measures** - Regulated Projects shall implement source control measures	2014-2015	*WGR is recommending a regional approach to the Post-Construction Storm Water Management Program. We are advocating that the City and other municipalities collaborate in the development of a standardized Post Construction Design Manual (as required by the permit). The Design Manual will address all of the E.12 requirements and LID / hydromod design criteria. Not only will the MS4 be able to share costs with the other MS4s for the development of the manual, but the MS4 will also be able to share training costs in which applicable staff from all of the collaborating municipalities can participate in a single training event. Another advantage of a standardized Storm Water Construction Design Manual is that developers in the region will have a consistent standard and expectation in all of the municipalities. Please refer to Section C of this proposal for the collaboration cost quote.*
E.12.e	**LID Standards** - all Regulated Projects shall implement LID standards to treat storm water and provide baseline hydromod mgmt to meet numeric sizing criteria under E.12.e(ii)c		
E.12.h	**Operation and Maintenance of Post-Construction Storm Water Management Measures**		
	Implement an O&M verification program for storm water treatment and baseline hydromod (defined in E.12.e.ii.f) on all regulated projects		
E.12.j	**Planning and Development Review Process**		
	Conduct review using an existing guide such as Municipal Regulatory Update Assistance Program		
	Complete any changes to landscape code to administer post-construction requirements		
E.14	**PROGRAM EFFECTIVENESS ASSESSMENT**		
E.14.a	**Program Effectiveness Assessment and Improvement Plan (PEAIP)**		
	Submit PEAIP	2014-2015	*WGR recommends that this task be performed in collaboration with other MS4s and based on the CASQA and USEPA PEAIP guidance documents. Please refer to Section C of this proposal for the collaboration cost quote.*

E.16	ANNUAL REPORTING PROGRAM		
E.16.a	Use SMARTS to report and certify	2014-2018	*The City has already submitted the Year 1 report.* *The Year 2 report will be started during Sumer 2015 and will be due on Oct. 15, 2015.*
E.16.b	Complete and retain annual reports and make available to RWQCB during working hours		
E.16.c	Submit detailed written or oral report to RWQCB if directed.		
E.16.d	May coordinate reporting if regional programs		

The following are the ***estimated*** WGR resources and hours to perform the above tasks. We have attempted to provide a realistic cost estimate for WGR's ancillary support of the City's in-house implementation of these tasks. ***The actual degree of involvement from City staff may increase or decrease the actual WGR expense.*** The collaboration costs for five specific Year 2 tasks are presented in Section C of this proposal.

Task Number	Section and Estimate of Resources and Hours	Task Sub-total
E.6	PROGRAM MANAGEMENT AND LEGAL AUTHORITY	$500
E.6.a and b	Senior compliance specialist 4 hours	
E.7 & E.8	EDUCATION AND OUTREACH AND PUBLIC INVOLVEMENT PROGRAM	$1,500
E.7.a & E.8	Senior compliance specialist 12 hours to work with City staff to customize the template created by the collaborative effort and assistance with the implementation and training ***(plus the collaboration cost in Section C of this proposal)***	
E.9	ILLICIT DISCHARGE DETECTION AND ELIMINATION	$500
E.9.a - d	Senior compliance specialist 4 hours for support and questions by the City staff. Costs do not included analytical testing or the purchase of field test kits.	
E.10	CONSTRUCTION SITE STORM WATER RUNOFF CONTROL PROGRAM	$500
E.10.c	Senior compliance specialist / QSD / QSP 4 hours for support and questions by the City staff ***(Refer to Section B of this proposal for optional unit costs for WGR to perform inspections, ESCP / SWPPP reviews, and Post-Construction submittal reviews.)***	
E.11	POLLUTION PREVENTION / GOOD HOUSEKEEPING PROGRAM	$2,000
E.11.a, b, f, and j	Training, assistance with the inventory and mapping process and the drainage system maintenance prioritization, and coordination with other departments Senior compliance specialist 16 hours	
E.12	POST CONSTRUCTION STORMWATER MANAGEMENT PROGRAM	$2,500
E.12	Senior compliance specialist 20 hours to work with City staff to customize the template created by the collaborative effort and training of the Planning Department ***(plus the collaboration cost in Section C of this proposal)***	
E.13 & E.15	WATER QUALITY MONITORING & TMDL REQUIREMENTS	$1,000
E.13.b. E.15.a E.15.b E.15.d	Although this is not a Year 2 activity, some of it is a continuation from Year 1 and is for the Monitoring Plan preparation as required by the CVRWQCB by June 30, 2014. Senior compliance specialist 8 hours to work with City staff to customize the template created by the collaborative effort ***(plus the collaboration cost in Section C of this proposal)***	
E.14	Program Effectiveness Assessment and Improvement Plan	$1,000
E.14.a	Senior compliance specialist 8 hours to work with City staff to customize the template created by the collaborative effort ***(plus the collaboration cost in Section C of this proposal)***	
E.16	ANNUAL REPORTING PROGRAM	$3,572
E.16.a	Senior compliance specialist 4 hours Compliance specialist 32 hours (Assumes assistance from City staff and departments in the compilation and provision of supporting data and information.)	

Total Estimated Annual Cost for Section A: $13,072

The following are the hourly rates for the above-described personnel. These rates are valid through December 31, 2015.

Senior Compliance Specialist / QSD	$125/hour
Compliance Specialist / QSP	$96/hour
Compliance Technician	$82/hour
Project related mileage	$0.56/mile

When requested, WGR can provide a similar task identification, recommendation, and labor estimation for the remaining three years of the permit term.

Section B: General Permit Compliance Support, Project Management Tasks, and Optional Unit Cost Fee-based Tasks

WGR can provide support for the following general support tasks on an as-needed basis. The number of hours are *estimated.* ***The actual degree of involvement from City staff may increase or decrease the actual WGR expense in this area.***

Task B.1. Project meetings

Task B.2. Miscellaneous permit compliance support

Task B.3. Communication with the Water Board staff

Task B.4 Monitor the development of the Regional MS4 Permit and the Trash Amendments

Resource	Rate	Estimated Quantity for all of the above tasks	Subtotals
Senior Compliance Specialist / QSD	$125/hour	6 hours	$750
Compliance Specialist / QSP	$96/hour	4 hours	$384
Project related mileage	$0.56/mile	250 miles	$140

WGR proposes following optional *fee-based unit cost tasks* to assist the City on an as-needed basis:

Monthly Construction Inspections (First time inspection of a CGP-permitted project)	$195/location
Monthly Construction Inspections (Subsequent inspection of a CGP-permitted project or any inspection of a non-CGP permitted project that is required to be inspected per the City's MS4 permit)	$155/inspection
Follow-up Construction Inspections (As required of any site)	$155/inspection
SWPPP or ESCP Review for Compliance with City & State Requirements	$375/review
Project-specific Post-Construction Submittal Review for Compliance with City & State Requirements	$375/review

Total Estimated Annual Cost for Section B: $1,274 + fee based tasks

Section C: Year 2 Collaboration Tasks

WGR is pleased to provide you with this proposal to participate in Phase II MS4 permit collaboration efforts for selected Year 2 tasks. The collaboration task agreement is between the individual municipalities and WGR Southwest, Inc. In effort to maintain the participation-based costs, by signing accepting Section C of this proposal you are agreeing to be invoiced for the sum of each agreed upon collaboration task. WGR will invoice the City at the completion of each agreed upon task for the pre-arranged amount. Completion is defined for document preparation tasks as when the template is first delivered to the municipality. For the training task, completion is defined as when the first training event has been held. The anticipated task completion schedule is based on the permit and is subject to change. ***Although we have strived hard to confirm and secure the number of collaborating municipalities before issuing Section C of this proposal, WGR reserves the right to withdraw and nullify this part of the proposal should the number of municipalities signing and accepting this collaboration proposal be less than those anticipated below.*** Should that happen, WGR will reissue a proposal with costs divided by the adjusted number of collaborating municipalities. Should we have more than the number of anticipated collaborating municipalities, WGR will adjust the fee downward accordingly. The following is a summary of the tasks that the City has indicated interest to collaborate with other Phase II MS4s.

Year 2 Task	Description of the collaborative approach	Final Shared Collaborative Task Cost	Anticipated Schedule
Education & Outreach Plan (Task C.1.) - Permittee shall develop and implement a comprehensive storm water public education and outreach program. The public education and outreach program shall be designed to reduce pollutant discharges in storm water runoff and non-storm water discharges to the MS4 through increased storm water knowledge and awareness in target communities. The Public Education and Outreach Program shall be designed to measurably increase the knowledge and awareness of targeted audience regarding the municipal storm drain system, impacts of urban runoff and non-storm water discharges on receiving waters, and potential BMP solutions for the target audiences, thereby reducing pollutant releases to the MS4 and the environment.	WGR will prepare a template document that can be used and customized by participating municipalities. We believe the template can be easily adapted by many of the Central Valley MS4s because, although there are unique water quality concerns and objectives for different MS4s, there are enough similarities in the watersheds, pollutants of concern, and the TMDLs to allow for a basic approach to E&O which then can be customized to accommodate to more local issues.	$10,000 / 15 MS4s = **$667/MS4**	Nov. 2014 – Jan. 2015

<u>Post Construction Standards Plan (Task C.2)</u> – Develop standards that incorporate the Phase II MS4 Permit's LID and hydromodification requirements that can be used by developers and municipal staff to assure that projects comply with the new requirements.	WGR believes that a Post Construction Standards Plan template would be 90% applicable to any MS4 and would only require minor customization to make it specific to any particular municipality. The document would adhere to the Phase II MS4 permit requirements but would also incorporate by reference other available resources such as CASQA's post construction manual and the Bay Area post construction reference materials. An advantage is that the standardization of the plan will assist contractors and developers in knowing what is required from one municipality to another. Another advantage is it will facilitate collaborative training of municipal staff on the implementation of this plan.	$25,000 / 15 MS4s = **$1,667 / MS4**	Nov. 2014 – Jan. 2015
<u>Regional TMDL Monitoring Program Study Design and Implementation Schedule Plan (Task C.3)</u> - Permittees are strongly encouraged by the Water Board to develop and/or participate in a regional water monitoring program. Permittees should collectively submit a single regional monitoring study design and implementation schedule for Executive Officer approval instead of individual monitoring plans. If Permittees would like consideration under this regional monitoring option, they need to contact the Central Valley Water Board staff no later than June 30, 2014.	WGR has researched existing monitoring data resources and potential monitoring scenarios for the Lower San Joaquin River and has developed a conceptual regional monitoring program. We have received positive initial feedback from our preliminary consultations with the Central Valley RWQCB staff on the proposed approach. Our approach is to utilize existing data sources and to have each participating municipality collect representative data that could be shared by the other participating MS4s, thus minimizing the amount of monitoring that any one municipality would have to do. We were able to meet the Water Board's June 30th notification deadline and we have been recognized as a Central Valley regional monitoring group.	$5,000 / 10 MS4s = **$500 / MS4** Cost to develop the Study Design and Implementation Plan (does not include performing the monitoring; also outfall information and other drainage system information will need to be provided to WGR by MS4)	January 2015
<u>Program Effectiveness Assessment and Improvement Plan (Task C.4)</u> – The Permittee shall develop and implement a Program Effectiveness Assessment and Improvement Plan that tracks annual and long-term effectiveness of the storm water program. The Program Effectiveness Assessment and Improvement Plan will assist the Permittee to document compliance with permit conditions and to adaptively manage	WGR has prepared similar documents for Phase I MS4 permittees and we based our document, as the Water Board suggested, on the CASQA guidance manual. We will prepare a template document to be used by each participating municipality that we believe will be 80 – 90% complete and can be easily customized with local MS4-specific information. There is	$10,000 / 15 MS4s = **$667 / MS4**	Mar. – May 2015

its storm water program and make necessary modifications to the program to improve program effectiveness at reducing pollutants of concern, achieving the MEP standard, and protecting water quality. The Program Effectiveness Assessment and Improvement Plan shall identify the strategy used to gauge the effectiveness of prioritized BMPs and program implementation as a whole. Prioritized BMPs include BMPs implemented based on pollutants of concern. Where pollutants of concern are unidentified, prioritized BMPs are based on common urban pollutants (i.e., sediment, bacteria, trash, nutrients). The annual effectiveness assessments will help identify potential modifications to the program to ensure long-term effectiveness. The Program Effectiveness Assessment and Improvement Plan may be modeled upon the most recent version (if applicable) Municipal Storm Water Program Effectiveness Assessment Guidance (CASQA, May 2007) or equivalent.	enough similarity in the Central Valley MS4s and their pollutants of concern / TMDLs to accommodate a good template that will be largely applicable to all MS4s collaborating in this task.		
Training Events (Task C.5) – Provide a day of training with sessions applicable to plan checkers, construction inspectors, field crews, and other municipal staff that need to be trained on the following topics: Review of Erosion and Sediment Control Plans Performing construction site storm water inspections Post-construction standards training IDDE training Biennial pollution prevention training for municipal operations Landscape management BMPs	WGR will provide a day of training by providing various workshops on the topics required by the permit. Collaborating municipalities can send their personnel to any of the workshops that are appropriate for their staff. Personnel would only have to attend classes that apply to their job duties.	$5,000 / 15 MS4s = $334 / MS4 *WGR will host up to two centrally located regional workshops for municipalities to send appropriate staff for training. WGR will attempt to host two separate workshops. Dates and times will be chosen by participant consensus. It is the individual municipality's responsibility to attend one of the two training workshop opportunities. Costs include presentation preparation time, materials, and the workshop presentations. Costs do not include the rental of a facility and meals/food & drinks. Perhaps one of the collaborating facilities could donate the use of one of their large meeting rooms.*	Spring 2015

Total Estimated Cost for all Collaboration Tasks in Section C: $3,835

Total Estimated Year 2 Cost for Sections A, B, & C: $18,181

With a 10% Contingency: $19,999

We thank you for this opportunity to serve you and we look forward to working with the City of Turlock to accomplish the Year 2 permit requirements. If I can answer any questions concerning our proposal or the MS4 permit requirements, please do not hesitate to call me or to schedule a meeting to discuss the proposed scope of work.

Respectfully submitted,
WGR Southwest, Inc.

John M. Teravskis

John M. Teravskis, CPESC, QSD/QSP
Senior Compliance Specialist and
Operations Manager for Northern California

5J

Council Synopsis

December 9, 2014

From: Maryn Pitt, Assistant to the City Manager for Economic Development and Housing

Prepared by: Maryn Pitt, Assistant to the City Manager for Economic Development and Housing

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Authorizing the City Manager to enter into standard Non-Disclosure Agreements with potential new industry representative(s)

2. DISCUSSION OF ISSUE:

A non-disclosure agreement (NDA), is a legal contract between at least two parties that outlines confidential material, knowledge, or information that the parties wish to share with one another for certain purposes, but wish to restrict access to or by third parties. It is a contract through which the parties agree not to disclose information covered by the agreement. An NDA creates a confidential relationship between the parties to protect any type of confidential and proprietary information or trade secrets.

NDAs are commonly signed when two companies, individuals, or other entities (such as partnerships, societies, etc.) are considering doing business and need to understand the processes used in each other's business for the purpose of evaluating the potential business relationship. NDAs can be "mutual", meaning both parties are restricted in their use of the materials provided, or they can restrict the use of material by a single party.

New industries or companies who are looking to locate to Turlock often wish to do so confidentially before any decisions are made. Often times, companies desire to protect any type of information that is not generally known. However, nondisclosure agreements may also contain clauses that will protect the person receiving the information so that if they lawfully obtained the information through other sources they would not be obligated to keep the information secret. In other words, the nondisclosure agreement typically only requires the receiving party to maintain information in confidence when that information has been directly supplied by the disclosing party.

3. BASIS FOR RECOMMENDATION:

The intent of this agreement is not to create a veil of secrecy, but rather have the City Council authorize the City Manager to sign a standard Non-Disclosure Agreement that outlines the standard items for which the City will participate in a confidential relationship for the purpose of locating a potential new company locating or expanding in Turlock.

In its most basic form, a nondisclosure agreement is a legally enforceable contract that creates a confidential relationship between a person who holds some kind of trade secret and a person to whom the secret will be disclosed. Confidentiality agreements typically serve two key functions:

A. **NDAs protect sensitive information.** By signing an NDA, participants promise to not divulge or release information shared with them by the other people involved. If the information is leaked, the injured person can claim breach of contract.

B. **Confidentiality agreements and NDAs expressly outline what information is private and what's fair game.** In many cases, the agreement serves as a document that classifies exclusive and confidential information. The type of information covered by an NDA is virtually unlimited. In fact, any knowledge exchanged between those involved can be considered confidential. Think test results, customer lists, software, passwords, system specifications and other data. While this list isn't exhaustive, it might help you think of other instances of protected information.

Strategic Plan Initiative: **E. POLICY INITIATIVe-ECONOMIC DEVELOPMENT**:

1) GOALS:

a. Create and sustain value-added economic development
b. Generate job creation and retention

d. Create diversity of opportunity for business and community development

f. Maximize use of Alliance and others (CVB, Chamber of Commerce, developers and California State University Stanislaus)

4. FISCAL IMPACT / BUDGET AMENDMENT:

There is no fiscal impact associated with the delegated authority to enter into these agreements.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

Not applicable.

7. ALTERNATIVES:

A. The City Council could choose not to authorize the City manager to enter into a standard NDA.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AUTHORIZING THE CITY MANAGER TO ENTER INTO STANDARD NON-DISCLOSURE AGREEMENTS WITH POTENTIAL NEW INDUSTRY REPRESENTATIVE(S)	}	**RESOLUTION NO. 2014-**

WHEREAS, companies that potentials are interest in locating or expanding in Turlock require certain proprietary and confidential data; and

WHEREAS, the City of Turlock wants to assist those companies in establishing of expanding those businesses to Turlock and have agreed to the confidentiality of information and data shared; and

WHEREAS, potential companies/employers desire to have all such information handled by the City of Turlock in a confidential manner.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby, as follows:

1. The City of Turlock will utilize a standard Non-Disclosure Agreement, in substantially the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

2. The City Manager of the City of Turlock, California is hereby authorized to execute and deliver and the City Clerk of the City of Turlock, California is hereby authorized to attest to said execution of Non-Disclosure Agreements as so authorized and approved for and on behalf of the City of Turlock, California.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

NONDISCLOSURE AGREEMENT
between the
CITY OF TURLOCK
and
CONFIDENTIAL CLIENT

THIS AGREEMENT is made this ____ day of _____, 20__, by and between the **CITY OF TURLOCK**, a municipal corporation of the State of California hereinafter referred to as "CITY" and _____, a _____, hereinafter referred to as "CONFIDENTIAL CLIENT."

RECITALS

A. _____ and CITY have a mutual interest in exploring the possibility of a transaction between them (the "Relationship").

B. To the maximum extent permitted by law, _____ and CITY mutually desire to maintain the confidentiality of their discussions about the proposed Relationship as well as any confidential or proprietary information of either party which may be disclosed in connection with these discussions.

AGREEMENT

The parties hereto agree as follows:

1. Confidential Information. The term "Confidential Information" as used herein shall mean the existence of discussions between CITY and CONFIDENTIAL CLIENT concerning the proposed Relationship, the substance of these discussions, and written information received by CITY which has clearly been identified by legends or other markings by CONFIDENTIAL CLIENT to be confidential. Confidential Information does not include information which CITY can establish (a) is or becomes generally available to the public other than as a result of a disclosure by CITY or its employees, agents or other representatives in breach of this Agreement; (b) was available on a non-confidential basis to CITY from a source other than the CONFIDENTIAL CLIENT who is not otherwise bound by an obligation of confidentiality to the CONFIDENTIAL CLIENT by contract, fiduciary obligation or otherwise and who acquired the information lawfully; (c) was in possession of CITY prior to such information being disclosed to CITY by the CONFIDENTIAL CLIENT, or (d) is independently developed by CITY's employees who have no knowledge of or access to the CONFIDENTIAL CLIENT's Confidential Information, as shown by documentary evidence.

OK for Agenda
JCM

2. Use for Limited Purpose. Each party shall use the Confidential Information of the other party solely in furtherance of the proposed Relationship and for no other purpose; provided, however that nothing in this Agreement shall be construed as granting to the party receiving Confidential Information any rights, by license or otherwise, to such Confidential Information, nor shall it be construed as an obligation of either party to enter into any further agreement with the other party.

3. Nondisclosure. To the maximum extent permitted by law, each party shall maintain the Confidential Information of the other and shall not disclose such Confidential Information to any other person except to its employees, agents or other representatives of the party to whom such Confidential Information has been disclosed who have a need to know.

4. Required Disclosure. A party may disclose the Confidential Information of the other party to the extent such disclosure is required by court or governmental administrative order or process, or as required by the Public Records Act, California Government Code Section 6250 et seq., provided such other party is provided prior written notice of such requirement and a reasonable opportunity to review the disclosure before it is made, to interpose its own objections to the disclosure and has an opportunity to seek a protective order or other assurance that the Confidential Information will be accorded confidential treatment all at its sole cost and expense.

5. No Warranties of Accuracy. Neither party makes any representations as to the accuracy or completeness of the Confidential Information it may disclose to the other party or any other party.

6. Assignment; Successors. Neither party may assign this Agreement without the written consent of the other party. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the parties and their successors and permitted assigns.

7. Equitable Relief. Each party agrees that any disclosure or use of the Confidential Information of the disclosing party in violation of this Agreement may cause the disclosing party irreparable harm and consents to a court of competent jurisdiction granting any order for injunctive relief. Equitable relief shall be the only remedy available for breach of this Agreement.

8. Attorneys' Fees. If any action is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees and court costs.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

10. Term and Termination. This Agreement becomes effective once executed by both parties and may be terminated at any time by any party by providing the other party written notice of said termination.

11. Notices. Any formal notice or demand to be made or given under this Agreement shall be in writing and may be given by personal delivery, by facsimile transmission or by a nationally recognized overnight delivery service addressed to the respective parties as follows:

In the case of CITY:

City of Turlock
Roy W. Wasden, City Manager
156 S. Broadway, Suite 230
Turlock, California 95380-5456
Office: 209-668-5540
Fax: 209-668-5668

In the case of CONFIDENTIAL CLIENT:

Or to such other address or fax number as the parties may designate from time to time. Any notice, demand, direction or communication made by personal delivery or by courier shall be conclusively deemed to have been given on the day of actual delivery, or, if made or given by facsimile transmission, on the first business day following the transmittal thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officer's thereunto duly authorized.

CITY OF TURLOCK, a municipal corporation

By: _____
Roy W. Wasden, City Manager

Date: _____

APPROVED AS TO SUFFICIENCY:

By: _____

APPROVED AS TO FORM:

By: _____
Phaedra A. Norton, City Attorney

ATTEST:

By: _____
Kellie E. Weaver, City Clerk

CONFIDENTIAL CLIENT

By: _____

Title: _____

Print name: _____

Federal Tax ID: _____

Date: _____

5K

Council Synopsis

December 9, 2014

From: Maryn Pitt, Assistant to the City Manager for Economic Development and Housing

Prepared by: Maryn Pitt, Assistant to the City Manager for Economic Development and Housing

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving an agreement between the City of Turlock and the Turlock Downtown Property Owners Association (TDPOA) for the implementation of a Management District Plan and authorizing the City Manager to execute the agreement for a term of ten (10) years, expiring on December 31, 2023

2. DISCUSSION OF ISSUE:

In 1998, the City joined the Turlock Downtown merchants and property owners to create a public benefit improvement district to provide funding for special benefits to the Downtown. This district was created pursuant to the Parking and Business Improvement Area Law of 1965 (California Streets and Highway Code (§36000-36081) by adoption of City of Turlock Ordinance Number 1998-153. The law provided the City Council with the sole discretion as to how the revenue derived from the assessment is to be used within the scope of the purposes spelled out in the 1965 State law.

The boundaries of the Public Benefit Improvement District (PBID) were defined by the Ordinance encompassing the heart of the Downtown business district bounded generally by Olive and Crane, and by Lander and Palm Streets.

The Downtown Property Owners Association operates as an independent 501(c)(6) not-for-profit corporation (TDPOA) and has an annual budget of approximately $136,860, about ninety-nine percent (99%) of which is derived from the PBID assessment on approximately 45 TDPOA property owners .

Prior Agreement

There was a prior agreement and Downtown Plan that was associated with the last PBID approval term. The new Agreement, (attached as Exhibit A) defines the roles and responsibilities reflected in the Downtown Management Plan dated November 13, 2013 for the ten year period of the PBID.

This Agreement addresses the coordination of revenues and expenditures by the TDPOA as a result of ten (10) year renewal of the PBID as well as outlining the City's responsibilities. The Agreement also lists on-going services that the TDPOA has traditionally provided, including but not limited to working to address issues of parking, downtown maintenance, economic vitality and long term strategies for the viability and health of the TDPOA. The Agreement is substantially the same as the initial contract and continues the long and successful relationship between the City and the TDPOA.

The Agreement, as written, reflects the value the TDPOA provides in terms of promotional activities and the coordination with the Chamber and the Convention and Visitors Bureau. The Agreement also provides clarity and further defines roles and responsibilities between the City and the TDPOA, reinforces the TDPOA's responsibility for good management of its events and subcontractors, and further illuminates the importance of the TDPOA activities to the City.

3. BASIS FOR RECOMMENDATION:

A. The City and the TDPOA seek a continued relationship to preserve the vitality and effectiveness of the Downtown to support businesses and attract visitors to the City of Turlock. The TDPOA will continue to provide a high level of service to the City in accordance with the Agreement to the benefit of the Area businesses and, with the continuing support of the City, for the betterment of the City as a whole.

B). This project meets the objectives set forth in the City Council's Strategic Plan.

Strategic Plan Initiative: B. Fiscal Responsibility

Goal(s) c: Ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions, such as California State University Stanislaus.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact

The City will continue to collect the approximately $136,680 in PBID assessment revenues and will pass these funds to the TDPOA for services provided in accordance with this Agreement. In addition, the City will continue to provide limited amount of financial accounting support, however, the agreement provides $2,500 for PBID administration in association with interfacing with the County Auditor and Tax Collector in the submission of the necessary documentation or

the collection of the PBID assessments and subsequently pass those revenues through to the TDPOA.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Do not renew the Agreement with the TDPOA. The Council could direct staff to explore alternatives to contracting with the TDPOA for the services provided by this organization. Due to the ongoing nature of the activities particularly the special events such as Fourth of July and the Festival of Lights that have become hallmarks of our community, this is not recommended.

AGREEMENT BETWEEN CITY OF TURLOCK AND TURLOCK DOWNTOWN PROPERTY OWNER'S ASSOCIATION FOR IMPLEMENTATION OF MANAGEMENT DISTRICT PLAN (Downtown Property and Business Improvement District 2013) Contract # 13-061

THIS AGREEMENT is made this 12th day of November 2013, by and between the **CITY OF TURLOCK**, a municipal corporation of the State of California ("City"), and the **TURLOCK DOWNTOWN PROPERTY OWNERS ASSOCIATION**, a nonprofit corporation, ("Organization").

W I T N E S S E T H:

WHEREAS, the Property and Business improvement District Law of 1994, (California Streets and Highway Code Section 33600 et seq.) (the "PBID Law") authorizes the CITY OF TURLOCK to form a Property and Business Improvement District within the City of Turlock; and

WHEREAS, on August 6, 1998, the CITY approved Resolution No. 1998-153 declaring the intention to form a Downtown Property and Business Improvement District for five years; and

WHEREAS, on June 24, 2003, the CITY approved Resolution No. 2003-147 to renew the PBID for a period of ten years; and

WHEREAS, on July 9, 2013, the City Council held a public hearing regarding the establishment of the PBID and the levy of the assessment, and at the conclusion of the hearing determined that a majority protest against the proposed PBID assessment did not exist, whereupon the City Council adopted Resolution No. 2013-114, incorporated herein, establishing the Downtown Property and Business Improvement District 2013-1 ("PBID") for a ten year term expiring on December 31, 2023; and

WHEREAS, the Downtown PBID Management District Plan and related Engineer's Report, (collectively "Management Plan"), incorporated herein, variously describes the properties within the exterior boundaries of the PBID to be assessed and benefitted, the method and amount of assessment, and the activities and improvements to be funded by the assessment; and

OK for Agenda

WHEREAS, the Management Plan indicates that the Organization, with a board of directors consisting primarily of property owners within the District as required by and in full compliance with the Management Plan, will provide the activities and any improvements described in the Management Plan and otherwise be charged with managing the PBID's day-to-day operations including determining budgets, assessment rates and monitoring service delivery; and

WHEREAS, the PBID Law requires that the City contract with the nonprofit corporation designated in the Management Plan, whereupon the Organization, as PBID owner's association will be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all documents relating to activities of the PBID; and

WHEREAS, the parties desire that the Organization act as "Owner's Association" for the PBID, upon the terms and conditions herein; and

WHEREAS, in December 17, 2014, the Organization's Board of Directors considered and approved this Agreement; and

WHEREAS, on November 12, 2013, the Turlock City Council considered and authorized this Agreement.

NOW, THEREFORE, in consideration of the above recitals and for other good and sufficient consideration, the City and Organization agree as follows:

ARTICLE I

RECITALS

All the foregoing recitals are true and correct and incorporated herein by this reference as fully set forth herein.

ARTICLE II

DOWNTOWN PBID MANAGEMENT, MAINTENANCE, ADMINISTRATION & RESERVE

The Property Business Improvement District (hereinafter "PBID") which is managed by the Turlock Downtown Property Owners Association (hereinafter "TDPOA") will carry out and enforce the specific contract items below.

A. TDPOA – ORGANIZATION'S OBLIGATIONS

Landscape Contract. The TDPOA shall negotiate and contract for the cleaning and maintenance of the landscape and hardscape included within the boundaries of the PBID as set forth in the plan attached hereto as exhibit C. The TDPOA shall be solely responsible for supervising and maintaining the performance of the contract. The existing landscaping contract is attached hereto as exhibit B.

Management Plan. Provide all the activities and any and all improvements described in the Management Plan and otherwise administer and implement the Management Plan.

Initial Report. For fiscal year July 1, 2014-June 30, 2015, of the first year of operation, TDPOA shall submit to the City a written estimate of the PBID's budget for the next year. The estimate must include the amount of any anticipated increase in the assessment.

Annual Reports. By May 1st of each year of operation after the first year, submit to the City a written report in accordance with Streets and Highways Code section 36650 describing the Organization's activities in the previous calendar year.

Subcontracts and Procurement. Award and administer all subcontracts necessary for providing the activities and any and all improvements. For subcontracts of $25,000 or more, utilize a fair and documented competitive process which awards activities to the best value provider and awards improvements to the lowest price responsive and responsible bidder, by:

(1) soliciting proposals (for activities) and bids (for improvements);

(2) utilize a fair and documented competitive process which awards activities to the best value provider and awards improvements to the lowest price responsive and responsible bidder;

(3) make a written "Bid Record" for bid awards, after the subcontract is awarded (the Bid Record must list the name and amount bid for each bidder and include the facts supporting the award of the subcontract to the successful bidder). For any subcontract, upon request, provide the City with a copy of the subcontract, documentation and the Bid Record as applicable. Notwithstanding the foregoing, and to the extent consistent with controlling law and regulations, the TDPOA shall seek participation in subcontracting and procurement from within the PBID boundaries to the extent feasible.

Compliance with Laws. Comply with all federal, state, and local laws, including The Ralph M. Brown Act (Government Code § 54950 et seq.) ("Brown Act") whenever matters within the subject matter of the PBID are heard, discussed, or deliberated, and the California Public Records Act (Government Code § 6250 et seq.) for all documents relating to activities of the PBID; the Organization shall ensure that its board members will undertake training on the Brown Act, which may consist of self- study materials, an online course, or in-person training; and secure all necessary permits and authorizations for work on public property or within public right-of-ways such as sidewalks, alleys, streets, pedestrian malls, public easements, public buildings, and public-parking areas.

Work Product. All plans, studies, specifications, data magnetically or otherwise recorded on computer or computer disks or CDs, records, files, reports, etc., in possession of Organization relating to the matters covered by this Agreement shall be the property of the City, and Organization hereby agrees to deliver the same to the City upon termination of the Agreement.

Database. Maintain a complete database of assessed properties within the PBID. Update the database at least once each year to reflect changed conditions and to reflect accurately the status of assessed parcels. Provide a copy of the data base when submitting the annual reports.

Indemnity. Organization shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Organization or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Organization's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its officers, officials, employees, agents or authorized volunteers.

If Organization should subcontract all or any portion of the work to be performed under this Agreement, Organization shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph. This subsection shall survive termination or expiration of this Agreement.

Insurance. Throughout the life of this Agreement, Organization shall pay for and maintain in full force and affect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "AVII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage
$1,000,000 per occurrence for personal and advertising injury
$2,000,000 aggregate for products and completed operations
$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. Defense costs shall be provided as an additional benefit and not included within the above limits of liability. In the event Organization purchases an Umbrella or Excess insurance policy (ies) to meet the minimum limits of insurance set forth above, this insurance policy (ies) shall "follow form" and afford no less coverage than the primary insurance policy (ies). Organization shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Organization shall also be responsible for payment of any self-

insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City's Risk Manager or his/her designee. At the option of the City's Risk Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, officials, employees, agents and volunteers; or (ii) Organization shall provide a financial guarantee, satisfactory to City's Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after a 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Organization shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Organization shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Organization's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents and volunteers. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Organization shall furnish City with all certificate(s) and applicable endorsements affecting coverage required hereunder.

All certificates and applicable endorsements are to be received and approved by the City's Risk Manager or his/her designee prior to City's execution of the Agreement and before work commences. Upon request of City, Organization shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy.

This requirement shall survive expiration or termination of this Agreement.

If at any time during the life of the Agreement or any extension, Organization or any of its contractors or subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Organization of its responsibilities under this Agreement. The fact that insurance is obtained by Organization shall not be deemed to release or diminish the liability of Organization, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Organization. Approval or purchase of any insurance Agreements or policies shall in no way relieve from liability nor limit the liability of Organization, its board, officers, employees, agents, volunteers, persons under the supervision of Organization, vendors, suppliers, invitees, consultants, sub-consultants, contractors, subcontractors, or anyone employed directly or indirectly by any of them.

If Organization should contract or subcontract all or any portion of the services to be performed under this Agreement, Organization shall require each contractor or subcontractor to provide insurance protection in favor of City, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the contractor's or subcontractor's certificates and endorsements shall be on file with Organization and City prior to the commencement of any work by the contractor or subcontractor.

(j)Independent Contractor Status. The Organization will perform under this Agreement as an independent contractor and will be responsible for any federal, state, or local taxes or fees that apply to payments it receives from the City under this Agreement. The Organization's employees and subcontractors will not be employees of the City and will not be eligible for any benefits provided through the City, including but not limited to social security, health, worker's compensation, unemployment compensation, and retirement benefits. Neither the Organization nor any of its officers, employees, agents, volunteers, or subcontractors are or will be considered to be agents of the City in connection with the Organization's performance under this Agreement.

(k)Records/Audit. During the term of this Agreement, and for four years after the term expires or terminates, the Organization agrees to maintain detailed records pertaining to PBID administration sufficient to provide the basis for an unqualified opinion by an independent auditor, including but not limited to records concerning budgeting, expenditures, subcontracts (e.g., Bid Records), insurance, permits, administrative expenses, and overhead. The Organization agrees to make all such records available to the City at all reasonable times. If the City requests, the Organization will obtain and provide to the City, at the Organization's sole cost, an independent financial audit of the Organization's use of PBID funds for any or all years of the PBID's operation.

(l)Reserve. During the term of this Agreement, the Organization shalt establish and maintain a reasonable reserve to provide a contingency for unforeseen PBID program needs and to provide a cushion for assessment delinquencies. Reserve funds can also be utilized to repay PBID start-up loans, and to pay for costs associated with PBID renewal.

(m)Notice of Assessment Adjustment. The Organization shall be responsible to provide notice to County of Stanislaus, by July 15th of each year if the Organization invokes the 2.5% adjustment to the annual assessment.

B. CITY RESPONSIBILITIES:

PBID Administration. Regarding annual PBID proceedings, the City shall coordinate with the Organization regarding Organization's preparation of the assessment spread, assessment roll, annual City Council reports, any noticing by Organization of property owners, and any changes to the PBID's organization or to the cost-spread formulas, all subject to any/all required City Council approvals.

Billing and Collecting. The City shall coordinate with Stanislaus County on the semi-annual levy and collection of PBID assessments. The City may pursue at its discretion, but shall not be obligated under this Agreement to pursue, collection of delinquent PBID assessment payments and related penalties from property owners.

Payments to the Organization. Upon each receipt of collected PBID assessments from the County of Stanislaus, the City shall deduct reasonable and necessary administrative expenses and pay the Organization in trust the balance of the funds within 30 days of receipt from the County of Stanislaus.

Labor Hours. The City will continue to provide a minimum of 16 staff hours per week for maintenance within the PBID.

Public Right of Way. The City shall be responsible for the maintenance and replacement of the following items that are located in the Public Right of Way within the PBID:

(i) Cleaning of all tree wells
(ii) Replacement of fallen trees
(iii) Maintenance and replacement of all tree grates
(iv) Maintenance and replacement of landmark and directional signage
(v) Maintenance and replacement of light posts
(vi) Maintenance and replacement of parking enforcement signage
(vii) Maintenance and replacement of community trash enclosures

Parking Lots. The TDPOA shall contribute funds annually to The City parking lot fund in order to slurry seal and stripe the city owned parking lots located within the PBID every 5 to 7 years. The City shall be solely responsible for all construction and oversight of the parking lots which is beyond the scope of work for the TDPOA. The city shall notify the TDPOA 60 days prior to any construction within the parking lots in order to notify business owners within the district.

(a)The responsibility of the TDPOA shall be limited to the weekly maintenance within the planter areas of the city owned parking lots and the blowing of the parking lot area.

(b)In the event there is destruction by either a manmade or natural disaster it is the responsibility of the City to repair or replace the damaged property including but not limited to; trees, mailboxes, trash enclosures, curbs and power poles.

(c)The City shall be responsible for staying in compliance with specific state and federal ADA regulations pertaining to parking lot signage and striping.

(d) The fiscal year for the TDPOA is from July 1st to June 30th and is referenced below as "Year." The payment schedule for slurry seal of parking lots shall be as follows:

Year 1 – $5,458.86
Year 2 – $5,595.33
Year 3 – $5,735.21
Year 4 – $5,878.59
Year 5 – $6,025.55
Year 6 – $6,176.19
Year 7 – $6,330.60
Year 8 – $6,488.87
Year 9 – $6,651.08
Year 10– $6,817.36

Dumpsters & Trash Enclosures. The responsibilities of the City within the Dumpster and Trash Enclosure areas shall include but not limited to the following:

(a)In the event a dumpster enclosure located within the city owned parking lot is not being used by a PBID business or property owner then the City shall be responsible for keeping the enclosure clean otherwise it is the responsibility of the TDPOA to maintain and or enforce the cleaning of the enclosures that are used by TDPOA business or property owners.

ARTICLE III

. General Provisions:

(a) General Fund Not Liable. Neither the taxing authority, nor the bonding capacity, nor the general fund, nor any other fund or monies of the City other than actual PBID revenues received from the County Auditor Controller will be liable for payment of any obligations arising from this Agreement. Those obligations are not a debt of the City, nor are they a legal or equitable pledge, charge, lien, or encumbrance upon any of the City's property, income, receipts, or revenues. This Agreement embodies all of the Organization's reimbursement rights, and the City is not required to execute any additional note or document.

(b) Equal Opportunity Employment. The Organization represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, disability, ancestry, sex or age or other prohibited criteria.

(c) Notices. To be effective, any notice concerning this Agreement must be served by placing it in the US. Mail, addressed as set forth below, with postage prepaid (registered or certified mail, return receipt requested):

To the City:

City of Turlock
City Manager's Office
156 South Broadway, Suite 230
Turlock, California 95380

To the Organization:

Turlock Downtown Property Owners Association
Attention: Director
P.O. Box 1327
Turlock, California 95381

A notice will be considered delivered two business days after the date of deposit in the US. Mail. Any party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this subsection.

(d) Effective Date, Term, and Early Termination. This Agreement becomes effective on upon its complete execution by the parties. The term of this Agreement begins on the effective date and ends at 11:59 pm. on December 31, 2023. The City may terminate this Agreement early if it determines that the Organization:

(1) Has misappropriated funds, committed malfeasance, or violated any law in providing the activities and improvements described in the Management Plan or in otherwise administering and implementing the Management Plan; or

(2) Has materially breached this Agreement and has failed to cure the breach within 30 days after receiving the City's written demand for cure. Following early termination, the Organization will do all of the following as expeditiously as is reasonably possible: terminate all of its activities on behalf of the PBID, pay all obligations and administration costs it incurred on behalf of the PBID, and return to the City all remaining PBID funds and all assets acquired with PBID funds. The City will hold all returned funds and assets on behalf of the PBID.

(e) Attorneys' Fees. The prevailing party in any litigation or arbitration brought to enforce this Agreement will be entitled to recover reasonable attorneys' fees and costs incurred in connection with the litigation or arbitration, through final resolution.

(f) Interpretation and Venue. Time is of the essence of this Agreement, which is to be interpreted and applied in accordance with California law. Any litigation concerning this Agreement must be brought and prosecuted in the Stanislaus County Superior Court.

(g) Waiver. A party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon the other party's breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any term or provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other term or provision. A waiver is binding only if set forth in writing and signed by the waiving party.

(h) Entire Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement sets forth the parties' entire understanding regarding the subjects covered, it supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those subjects (whether written, oral, express, or implied) and may be modified only by another written agreement signed by both parties.

(i) Counterparts. The parties may execute this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same Agreement.

(j) Authorized Agents. Except as otherwise provided by law, all notices expressly required of City and not otherwise specifically provided for, shall be effective only if signed by the City Manager of the City, or his/her designee. Organization's contact person for purposes of this Agreement shall be its Director. The City's contact person for purposes of this Agreement shall be its Assistant to the City Manager for Economic Development and Housing.

(k) Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment.

(l) Amendment. This Agreement may be modified only by written instrument duly authorized and executed by all the parties.

(m) Conflict of Interest. Organization shall comply, and require any of its subcontractors to comply, with all laws and regulations including, without limitation, conflict of interest laws, such as Government Code 1090 et. seq., the California Political Reform Act (Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq). At any time, upon written request of City, Organization shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Organization and the respective subcontractor(s) are in full compliance with all laws and regulations. Organization shall take, and require any subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, Organization shall immediately notify City of these facts in writing.

(n)PBID Funds held in Trust. All PBID assessments and funds in the possession/control of the Organization hereunder are the property of the PBID and shall be held in trust by the Organization solely for the benefit of the PBID.

IN WITNESS WHEREOF, and intending to be legally bound hereby, City has caused this Agreement to be executed on its behalf by a duly authorized officer, and Organization has caused this Agreement to be executed on its behalf by a duly authorized officer, all as of the day and year first written above.

CITY OF TURLOCK,
a California municipal corporation

By: _____
Roy W. Wasden, City Manager

Date: _____

TURLOCK DOWNTOWN PROPERTY OWNER'S ASSOCIATION

By: _____
John Jaureguy, President

Date: _____

APPROVED AS TO FORM :

By: _____

Phaedra A. Norton, City Attorney

ATTEST:

By: _____

Kellie E. Weaver, City Clerk

5L

Council Synopsis

December 9, 2014

From: Allison Van Guilder, Director
Parks, Recreation and Public Facilities Department

Prepared by: Carla McLaughlin, Staff Services Technician

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Accepting donations received from July through October Fiscal Year 2014/15 to be deposited for a variety of Parks, Recreation & Public Facilities Department programs, scholarships, and activities

2. DISCUSSION OF ISSUE:

Staff has received donations for many programs and activities implemented by the Parks, Recreation & Public Facilities Department as per Exhibit A. Through the development and promotion of the "People, Program and Partnerships" program, staff has successfully engaged private businesses, non-profit agencies and individuals in creating community by supporting a variety of recreation, sports, and art activities. Monies received through donations assist in offsetting City resources typically provided by General Funds.

3. BASIS FOR RECOMMENDATION:

A) City policy requires that the City Council accepts all donations.

Strategic Plan Initiative: B. FISCAL RESPONSIBILITY

Goal(s): b. Identify smart revenue opportunities including but not limited to grants and outside sources of funding.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact: Increases to account numbers as attached in Exhibit A of the resolution.

Total amount donated $5,458.97

5. CITY MANAGER'S COMMENTS:

Recommend Approval

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A). The Council may choose not to accept this funding. Staff does not recommend this alternative, as these donations were solicited from the community to support programs, scholarships and recreational activities.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF ACCEPTING DONATIONS RECEIVED FROM JULY THROUGH OCTOBER FISCAL YEAR 2014/15 TO BE DEPOSITED FOR A VARIETY OF PARKS, RECREATION & PUBLIC FACILITIES DEPARTMENT PROGRAMS, SCHOLARSHIPS, AND ACTIVITIES	}	**RESOLUTION NO. 2014-**

WHEREAS, the Parks, Recreation & Public Facilities Department receives donations from the community to support a variety of programs, scholarships and activities; and

WHEREAS, through the development and promotion of the "People, Program and Partnerships" program, staff has successfully engaged private businesses, non-profit agencies and individuals in creating community by supporting a variety of recreation, sports, and art activities; and

WHEREAS, monies received through donations assist in leveraging City resources which are then deposited to various accounts as indicated on the attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby accept the donations received from July through October Fiscal Year 2014/15 to be used for a variety of programs and activities.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk
City of Turlock, County of Stanislaus,
State of California

Exhibit A

RECREATION PROGRAM DONATIONS & IN KIND CONTRIBUTIONS

Date	Donor	Address	City	State	Zip Co	Account Number		Amount
7/23/2014	City of Turlock Employees	156 S Broadway	Turlock	ca	95380	270-61-635-399.37200.000	$	180.00
8/1/2014	Save Mart	P O Box 4664	Modesto	CA	95352	270-61-635-399.37200_000	$	183.78
9/11/2014	Blue Diamond Growers	P O Box 1768	Sac	CA	95812	270-61-635-412.35720	$	5,000.00
10/24/2014	Save Mart	P O Box 4664	Modesto	ca	95352	270-61-635-399.37200_000	$	95.19

Donation Total	$	5,458.97
In Kind		
In Kind Total	$	-
Grand Total	**$**	**5,458.97**

Taken to City Council December 9 2014 for acceptance.

5M

Council Synopsis

December 9, 2014

From: Allison Van Guilder, Parks, Recreation and Public Facilities Director

Prepared by: Mark Crivelli, Recreation Sr. Supervisor

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving the renewal of a Memorandum of Understanding between the City of Turlock and the Turlock Unified School District to offer youth basketball programs within the community

2. DISCUSSION OF ISSUE:

The City of Turlock and Turlock Unified School District (TUSD), specifically Turlock High School and Pitman High School, intend to continue working together to implement a youth basketball program beginning January 2015. This eight week program is designed to teach K – 8th grade students the fundamentals of basketball. The program includes two weeks of skill clinics followed by six weeks of games. All program activity will take place at TUSD facilities. The City and TUSD have successfully partnered together to offer safe athletic opportunities for the past 15+ years.

3. BASIS FOR RECOMMENDATION:

To ensure the City and TUSD are adequately shielded from risk and liability; staff thoroughly evaluated the impacts of entering into a Memorandum of Understanding with TUSD. In order to contract with the City of Turlock, TUSD will be required to adhere to the standards set by the City of Turlock, in regards to operational guidelines, insurance requirements, fingerprinting and financial management, all of which are detailed in the MOU. Staff will work closely with TUSD to ensure all requirements are maintained for the life of the MOU.

Strategic Plan Initiative H. COMMUNITY PROGRAMS, FACILITIES, AND INFRASTRUCTURE

Goal(s): b-ii Support the community's youth by providing quality after school opportunities

b-iv Develop ongoing community partnerships, collaborations and sponsorships which will result in enhanced programming and services to the community as well as leveraging City resources

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact
At the conclusion of the program, the City of Turlock will pay TUSD, more specifically Pitman High School Basketball and Turlock High School Basketball, 35% of net program fees to each school and include a detailed report that includes date, location and services that each school is being paid. The City of Turlock will retain 30% of the net revenue received for the program. No additional monies are required for this program. The estimated budgeted revenue for this program is $14,500 with expenses set at $2,500.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Council could choose not to enter into a Memorandum of Understanding with TUSD to provide youth basketball opportunities. With this alternative, there could be a potential loss of revenue, as well as a loss of affordable youth sports activities.

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF TURLOCK
AND
TURLOCK UNIFIED SCHOOL DISTRICT
For
YOUTH BASKETBALL PROGRAMS
CONTRACT NO. 14-093

This Memorandum of Understanding stands as evidence that the City of Turlock and Turlock Unified School District intend to work together with Youth Basketball Programs towards the mutual goal of providing organized and meaningful youth basketball opportunities for youth in grades Kindergarten to Eighth for the 2015 calendar year. Both agencies agree that the implementation of Youth Basketball Programs, as described herein, will further this goal. To this end, TUSD agrees to participate in the program by coordinating/providing the following services every regular instructional day based on program season and providing City of Turlock with all information and documentation pursuant to the deadlines.

City of Turlock scope of services:

- Coordinate with TUSD basketball coaches from Pitman and Turlock High Schools to implement the youth basketball program which includes: training, evaluation/feedback.
- Provide materials to site leads for youth coaches to implement program requirements, i.e. weekly lesson plans.
- Provide administrative support for the youth basketball program taking all registrations, distribute fliers through the schools, advertising through the local newspapers, secure facilities; provide rosters to TUSD Youth Basketball Coaches.
- Pay TUSD, Basketball Teams at Pitman and Turlock High Schools 35% per site of net revenue, from the youth basketball program.
- Ensure all youth coaches and volunteers pass a DOJ fingerprint scan. Youth Sports Program Supervisor will notify the TUSD within 48 hours of receiving DOJ information which would disqualify the individual from working with children.

OK for Agenda

TUSD scope of services:

- Provide a basketball coach to be site lead at each site to conduct and supervise Youth Basketball Programs.
- Site lead will coordinate with the Youth Sports Program Supervisor to monitor program performance.
- Site lead will place participants on teams and develop game schedule once teams are assigned.
- Provide volunteers from basketball teams to be youth coaches.
- Oversee the program and ensure that program requirements are achieved.
- Place all participants on teams, set schedules and maintain program information.
- Ensure that all youth coaches and volunteers have passed a DOJ fingerprint scan prior to participating in the youth basketball program.

General Provisions:

1. **TERM OF AGREEMENT:** This Agreement shall become effective upon execution and shall continue in full force and effect for a period of Twelve months (12) beginning December 9, 2014 and ending December 9, 2015.

2. **INSURANCE AND INDEMNIFICATION**

(a) Insurance: The City shall keep in full force and effect during the term of this Agreement public liability insurance, insuring and protecting the District, the City, and their respective officers and employees from and against any and all liability of the District and/or the City for damages arising out of or connected with, the performance by the City, its agents, employees, volunteers or others pursuant to this Agreement. The public liability insurance required hereunder shall be in the minimum amount of One Million Dollars ($1,000,000) combined single limit. A certificate of such insurance shall be provided to the District, upon request. The District shall carry similar liability insurance, in addition to that which may be required by law, in the amounts, and with provisions reciprocal to, the terms, conditions, and obligations set forth in this section.

(b) Hold Harmless: Each party hereto shall hold the other, the other party's governing body, and its officers, agents, employees and volunteers free and harmless from any liability for loss, damage, injury, or death to persons, or damage to or loss of property, arising out of the other party's performance pursuant to this Agreement.

3. **RELATIONSHIP OF PARTIES:** All acts of SCHOOL DISTRICT, its agents, officers, and employees and all others acting on behalf of SCHOOL DISTRICT relating to the performance of this Agreement, shall be performed as SCHOOL DISTRICTs and not as agents, officers, or employees of the CITY. SCHOOL DISTRICT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of the CITY. SCHOOL DISTRICT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an

employee of SCHOOL DISTRICT. No agent, officer, or employee of the SCHOOL DISTRICT is to be considered an employee of the CITY. It is understood by both SCHOOL DISTRICT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

SCHOOL DISTRICT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as SCHOOL DISTRICTs and not as employees of the CITY.

SCHOOL DISTRICT shall determine the method, details and means of performing the work and services to be provided by SCHOOL DISTRICT under this Agreement. SCHOOL DISTRICT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the SCHOOL DISTRICT in fulfillment of this Agreement. SCHOOL DISTRICT has control over the manner and means of performing the services under this Agreement. SCHOOL DISTRICT is permitted to provide a service to others during the same period service is provided to CITY under this Agreement. If necessary, SCHOOL DISTRICT has the responsibility for employing other persons or firms to assist SCHOOL DISTRICT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by SCHOOL DISTRICT, such persons shall be entirely and exclusively under the direction, supervision, and control of SCHOOL DISTRICT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the SCHOOL DISTRICT.

It is understood and agreed that as a SCHOOL DISTRICT and not an employee of the CITY neither the SCHOOL DISTRICT or SCHOOL DISTRICT's assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that SCHOOL DISTRICT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of SCHOOL DISTRICT's personnel.

It is further understood and agreed that SCHOOL DISTRICT coaches and volunteers shall not transport participants in the youth basketball program at any time.

4. **VOLUNTARY TERMINATION:** Either party may terminate this Agreement without cause or legal excuse by providing thirty (30) days written notice to the other party.

5. **CONFORMANCE WITH FEDERAL AND STATE LAW:** All equipment, supplies and services used and/or provided by SCHOOL DISTRICT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California. SCHOOL DISTRICT its agents, officers and employees who violate local, state, or federal laws aimed at protecting children are ineligible to provide services under this agreement.

6. **NONDISCRIMINATION:** In connection with the execution of this Agreement, SCHOOL DISTRICT shall not discriminate against any employee or applicant for employment

because of age, race religion, color, sex, or national origin. SCHOOL DISTRICT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. SCHOOL DISTRICT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, SCHOOL DISTRICT shall comply with the provisions of Section 1735 of the California Labor Code.

7. **ENTIRE AGREEMENT AND MODIFICATION:** This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. SCHOOL DISTRICT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. SCHOOL DISTRICT specifically acknowledges that in entering into and executing this Agreement, SCHOOL DISTRICT relies solely upon the provisions contained in this Agreement and no others.

8. **OBLIGATIONS OF SCHOOL DISTRICT:** Throughout the term of this Agreement, SCHOOL DISTRICT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. SCHOOL DISTRICT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities and other resources necessary to provide the CITY with the services contemplated by this Agreement. SCHOOL DISTRICT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

9. **NEWS AND INFORMATION RELEASE:** SCHOOL DISTRICT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from the CITY through the City Manager.

10. **GOVERNING LAW:** This Agreement shall be governed according to the laws of the State of California.

11. **EMPLOYMENT OF CITY OFFICIAL OR EMPLOYEE:** SCHOOL DISTRICT shall employ no CITY official or employee in the work performed pursuant to this Agreement. No officer or employee of the CITY shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 *et seq.*; nor shall the CITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

12. **NOTICE:** Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

My signature below certifies that I understand the terms and conditions of this agreement and will fully participate in the implementation of the program and services described herein. I understand that failure to abide by the terms and conditions of this MOU may result termination.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officer's thereunto duly authorized.

CITY OF TURLOCK,
a municipal corporation

By: _____
Roy W. Wasden, City Manager

Date: _____

APPROVED AS TO FORM:

By: _____
Phaedra A. Norton, City Attorney

ATTEST:

By: _____
Kellie Weaver, CMC, City Clerk

TURLOCK UNIFIED
SCHOOL DISTRICT

By: _____

Title: _____

Print name: _____

Date: _____

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Council Synopsis

December 9, 2014

From: Robert A Jackson, Chief of Police

Prepared by: Nino Amirfar, Police Lieutenant

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Approving a Memorandum of Understanding between the Turlock Police Department and the Sacramento Internet Crimes Against Children Task Force and authorizing the City Manager to sign the agreement

2. DISCUSSION OF ISSUE:

The United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention Program partially funds the Sacramento Internet Crimes Against Children Task Force. The mission of the Task Force is the apprehension and prosecution of internet sexual predators who exploit children from our community through the use of the internet. Through joint cooperation and coordination the Task Force will seek out, arrest, and prosecute those individuals who commit various forms of internet sexual predators who exploit children through the use of computers.

The Sacramento County Sheriff's Department is the coordinator of the program and will coordinate all efforts between allied agencies who are members of the Task Force. The Task Force will also provide resources including education and training for the allied member agencies and provide educational information for business community.

3. BASIS FOR RECOMMENDATION:

A. A Memorandum of Understanding is required in order for the Turlock Police Department to become an allied agency member.

B. By becoming a member agency additional training and educational resources will be available to the Turlock Police Department at no cost.

Strategic Plan Initiative B. FISCAL RESPONSIBILITY

Goal(s): 1(c). ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions, such as California State University Stanislaus

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact – None.

Budget Amendment – None.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

None.

7. ALTERNATIVES:

A. Deny request for acceptance of Memorandum of Understanding.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE TURLOCK POLICE DEPARTMENT AND THE SACRAMENTO INTERNET CRIMES AGAINST CHILDREN TASK FORCE AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT	}	RESOLUTION NO. 2014-

WHEREAS, the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention Program partially funds the Sacramento Internet Crimes Against Children Task Force; and

WHEREAS, the procedure for becoming a participating allied agency is to enter into a Memorandum of Understanding; and

WHEREAS, the Turlock Police Department will benefit from this partnership in regards to resources for the apprehension and prosecution of internet sexual predators who exploit children through the use of computers; and

WHEREAS, the Sacramento County Sheriff Department requires a Memorandum of Understanding to be entered into in order to participate in this program; and

WHEREAS, there is no cost or expenditures associated with becoming an allied agency of this program; and

WHEREAS, the Turlock Police Department and our community will benefit from this collaboration in regard to additional resources available to apprehend and prosecute internet sexual predators who exploit children through the use of computers.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby approve a Memorandum of Understanding between the Turlock Police Department and the Sacramento Internet Crimes Against Children Task Force and authorizes the City Manager to sign the agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____

Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

Sacramento Internet Crimes Against Children Task Force

Memorandum of Understanding

I. Parties

The Sacramento Internet Crimes Against Children (Sacramento ICAC) Task Force is a partially grant-funded, multi-agency endeavor. Grant funding comes from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

This Memorandum of Understanding (MOU) is entered into by and between the following agencies:

Turlock Police Department and the Sacramento County Sheriff's Department

Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation that exists between the participating agencies.

II. Mission

The mission of the Sacramento ICAC Task Force is to apprehend and prosecute Internet sexual predators who exploit children through the use of computers. The Task Force will investigate crimes involving Internet sexual predators. The Task Force will produce high-quality investigations leading to successful prosecutions of Internet sexual predators. The Task Force shall participate in community education efforts regarding the prevention of Internet Crimes Against Children. The Task Force will provide funding for investigative training and equipment to employees of member-agencies outside Sacramento County within annual budget capabilities. Within Sacramento County, Task Force members are prepared to respond on short notice to assist law enforcement agencies, subject to availability.

III. Purpose

The purpose of this MOU is to delineate the responsibilities of the Sacramento ICAC Task Force, maximize inter-agency cooperation, and formalize relationships between member-agencies. The Task Force will investigate suspects who utilize the Internet to seek children as sexual partners and/or who traffic in child pornography. Specific ICAC crimes include Internet sexual exploitation of a minor and luring a minor for sexual exploitation as described in, but not limited to, the following statutes: California Penal Code Sections 266j, 269(a), 664/288, 288.2(a), 288.2(b), 288(a), 288(b), 288(c), 664/288, 290, 311.10, 311.11(a), 311.1(a), 311.2(b), 311.2(d), 311.3(a), 311.4(a), 311.4(b), 311.4(c), 647.6(a), 647(k)(2), 653f(c), 1203.2, and 3056; Federal statutes 2252(a)(4), 2252(a)(5), 2252(a)(1), 2252(a)(2), 2252A(a)(3), 2252A(a)(4), 2251(a), 2251(b), 2251(c), 2421, 2422(a), 2422(b),2423(a), 2423(b), 2425, 2241, and 1201(a)(1) and under Federal law, sexual exploitation of children is described in Title 18, Chapter 110. This MOU does not prohibit the investigation of other Internet crimes against children.

OK for Agenda

IV. Organizational Structure/Direction

The Sacramento ICAC Task Force includes investigators, supervisors, or prosecutors from various local, state, and federal law enforcement agencies who provide assistance subject to availability.

All participants acknowledge that the Task Force is a joint operation in which all agencies act as partners. The chain of command and supervision of the Sacramento Sheriff's Department and Sacramento Valley High Technology Crimes Task Force (SVHTCTF) is responsible for the policy and general direction of the Task Force. The Task Force supervisor will periodically contact supervisors, investigators, and prosecutors from other participating agencies to keep them informed of training opportunities, unusual circumstances, problems and successes of the Task Force.

Activities of the ICAC Task Force are further governed by the Operational and Investigative standards of the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention. The document describing the Operational and Investigative Standards contains confidential information not for public release. Member agencies must understand and comply with the standards. The standards are proprietary to the ICAC Board. Release of the standards is protected because release will likely jeopardize ongoing investigations.

V. Supervision

The day-to-day operational supervision of sworn personnel and administrative control of the Task Force is the responsibility of the ICAC Task Force Sergeant, assigned to the SVHTCTF however, Turlock Police personnel will be supervised by Turlock Police supervisors. The ICAC supervisor will work cooperatively with other supervisors and investigators from the participating agencies to keep them informed of Task Force issues and progress. Responsibility for the personal and professional conduct of Task Force members remains with the respective agencies, in keeping with each agencies' rules regarding conduct.

VI. Investigations

All Sacramento ICAC Task Force investigations will be conducted in a spirit of cooperation. Investigations will follow guidelines established by each agency's respective policy manual or guidelines. This MOU is not intended to infringe on the ongoing investigations of any other agency. It is agreed that unilateral acts on the part of employees involved in task force investigations are not in the best interest of the Task Force. All ICAC investigations must follow the guidelines laid out in the *"ICAC Program Operational and Investigative Standards,"* a copy of which will be provided to each participating agency.

VII. Prosecution

The criteria for determining whether to prosecute a particular violation in county, state or federal court will focus on achieving the greatest overall benefit to the public. Any question arising pertaining to jurisdiction will be resolved through discussions among the investigative and prosecutorial agencies having jurisdiction in the matter. When joint

jurisdiction exists, this MOU does not preclude additional prosecution(s) in other jurisdictions.

VIII. Media Relations and Releases

Media release information regarding joint Task Force operations will be coordinated and made jointly by all participant agencies. No unilateral press releases will be made by any participating agency without the prior notification and approval of the Sacramento ICAC. No information pertaining to the Task Force will be released to the media without the approval of participant agencies. Media releases shall not include information regarding specific investigative techniques.

All efforts will be made to protect undercover on-line identities. Member agencies will refrain from releasing the undercover on-line identity, age, or sex of investigators. Release of such information could jeopardize ongoing investigations where the same undercover name, age and sex are currently in use.

Here is an example of an information release involving an undercover on-line luring case:

> Internet Sexual Predator Arrest – Sacramento ICAC Task Force
> Tuesday, July 1, 2003, 1040 hours.
> Arrested person: John Doe, w/m, 01/01/60 (booked)
> Offense: Luring a minor for sexual exploitation
>
> On Tuesday, July 01, 2003, unemployed suspect John Doe used the Internet on a computer at his home to arrange to meet a minor child for sex. He then traveled to a pre-arranged meeting location in North Phoenix where he was arrested at 1040 hours. A search warrant was served at Doe's home and evidence was seized.

IX. Funding for Equipment

Dedicated grant funds may be provided for equipment to be used in the course of investigations involving Internet crimes against children. The funds shall be distributed in a manner permitting agencies outside Sacramento Sheriff to equip law enforcement with tools that will improve the investigative process. Member agencies utilizing ICAC funds for equipment agree to conduct investigations of crimes against children as required within their jurisdictions. Specific crimes include but are not limited to, Internet sexual exploitation of a minor and luring a minor for sexual exploitation as described in, but not limited to, the following statutes: California Penal Code Sections 266j, 269(a), 664/288, 288.2(a), 288.2(b), 288(a), 288(b), 288(c), 664/288, 290, 311.10, 311.11(a), 311.1(a), 311.2(b), 311.2(d), 311.3(a), 311.4(a), 311.4(b), 311.4(c), 647.6(a), 647(k)(2), 653f(c), 1203.2, and 3056; Federal statutes 2252(a)(4), 2252(a)(5), 2252(a)(1), 2252(a)(2), 2252A(a)(3), 2252A(a)(4), 2251(a), 2251(b), 2251(c), 2421, 2422(a), 2422(b),2423(a), 2423(b), 2425, 2241, and 1201(a)(1) and under Federal law, sexual exploitation of children is described in Title 18, Chapter 110. All equipment purchased under the ICAC grant remains the property of Sacramento ICAC and must be returned to Sacramento ICAC at either the conclusion of the grant or withdrawal of the participating agency from Sacramento ICAC.

X. Funding for Training

Dedicated ICAC grant funds may be provided to finance training that would be useful in the investigation of Internet crimes against children. The funds shall be distributed in a manner that will permit various agencies outside Sacramento Sheriff to gain the knowledge and skills needed to investigate Internet crimes against children. Member agencies utilizing ICAC funds for training agree to conduct investigations of crimes against children as required within their jurisdictions. Specific ICAC crimes include Internet sexual exploitation of a minor and luring a minor for sexual exploitation as described in, but not limited to, the following statutes: California Penal Code Sections 266j, 269(a), 664/288, 288.2(a), 288.2(b), 288(a), 288(b), 288(c), 664/288, 290, 311.10, 311.11(a), 311.1(a), 311.2(b), 311.2(d), 311.3(a), 311.4(a), 311.4(b), 311.4(c), 647.6(a), 647(k)(2), 653f(c), 1203.2, and 3056; Federal statutes 2252(a)(4), 2252(a)(5), 2252(a)(1), 2252(a)(2), 2252A(a)(3), 2252A(a)(4), 2251(a), 2251(b), 2251(c), 2421, 2422(a), 2422(b),2423(a), 2423(b), 2425, 2241, and 1201(a)(1) and under Federal law, sexual exploitation of children is described in Title 18, Chapter 110.

XI. Liability

Each agency shall assume the responsibility and liability for the acts and omissions of its own officers, agents, or employees in connection with the performance of their official duties under this MOU. For tort liability purposes, no participating agency shall be considered the agent of the other participating agencies. Each participating agency shall be liable (if at all) only for the torts of its own personnel that occur within the scope of their official duties.

The provisions contained herein include any violation of applicable law, ordinance, regulation, or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of any agency, or any of its agents, officers, or employees in its, or their performance hereunder.

It is the intent of the parties hereto that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

The agencies shall establish procedures to notify the other agencies where appropriate of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification provision. The agencies shall cooperate in the defense of such actions brought by others with respect to the matters covered in this MOU. Nothing set forth in this memorandum of understanding shall establish a standard of care for, or create any legal rights in, any person not a party to this MOU.

Each party, at its sole cost and expense, shall carry insurance or self-insure its activities in connection with this MOU, and obtain and keep in force insurance or equivalent programs of self-insurance, for general liability, professional liability, workers' compensation, and business automobile liability adequate to cover its potential liabilities hereunder.

XII. Duration and Termination

This MOU will be in effect beginning on the last date of signing listed below through June 30, 2017. Task Force member agencies may voluntarily withdraw participation at any time by providing written notice. Membership may be terminated by written notice of violation of ICAC operational and investigative standards.

Nothing in this MOU constitutes a grantor/sub-grantee relationship or recipient/sub-recipient relationship between the Sacramento Sheriff's Department and the Turlock Police Department.

SCOTT R. JONES, SHERIFF Sacramento County Sheriff's Department	ROY WASEN, CITY MANAGER City of Turlock
Date: _____	Date: _____

Contact Information	Contact Information
Contact Person: Lieutenant Eric Beuhler	Contact Person: Sergeant Michael Morgan
Mailing Address: P.O. Box 214327 Sacramento, CA 95821	Mailing Address: 244 N. Broadway Turlock, CA. 95380
Phone: (916) 874-3007	Phone: (209) 664-7322
FAX: (916) 874-3006	FAX: (209) 668-5656
Email: ebuehler@sacsheriff.com	Email: mmorgan@turlock.ca.us

Council Synopsis

December 9, 2014

From: Robert A. Jackson, Chief of Police

Prepared by: Nino Amirfar, Police Lieutenant

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving a sole source agreement with IBM Credit LLC, for the lease/purchase of an IBM Power S814, associated equipment, and installation will be paid on a sixty (60) month payment schedule of $999.10 per month, in an amount not to exceed a total of $59,946

2. DISCUSSION OF ISSUE:

The Police Department's current IBM I-Series Mini-mainframe server is seven (7) years old and exceeding 75% of storage capacity. The system also has reached end of life due to inability to upgrade to newer versions software and operating systems.

While the Police Department is currently researching a new CAD/RMS system, this process will take a minimum of 2-5 years to implement. This time frame is not sufficient in order to resolve the current deficiency.

We currently have an opportunity to utilize a lease/purchase agreement being offered from vendor Vertical VAR LLC, a business partner with Sungard (our current CAD/RMS provider), utilizing IBM Credit LLC where we can purchase a new IBM S814 and associated equipment for a total of 60 payments of $999.10 totaling $59,946.00.

We currently have budgeted $18,852.00 for annual maintenance of our current system. We can utilize these budgeted monies in order to pay for the new IBM S814 system which will provide us with the necessary upgrade and also save $6,862.00 annually

3. BASIS FOR RECOMMENDATION:

Our current IBM server which operates the Police Department CAD/RMS system is at end of life as it is seven (7) years old, exceeding 75% of its current storage capacity. We currently have budgeted $18,852.00 for annual maintenance of this system with expected cost increases of 5% for each additional year.

We have the ability to upgrade our current hardware to the IBM S814 system which will allow us to increase our storage capacity by 200% and additionally provide enhanced performance with lower cost of maintenance.

The IBM lease/purchase program gives us the ability to utilize our currently budgeted funds to purchase this equipment and save over $6,000.00 annually.

This purchase/lease program is only being offered through Vertical VAR LLC vendor as an agent for IBM Credit LLC, making this a sole source purchase.

Strategic Plan Initiative: B. POLICY INITIATIVE – FISCAL RESPONSIBILITY

Goal(s): c. Ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions, such as California State University, Stanislaus.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Currently budgeted at line number:
110-20-200-43045 "Computer Maintenance"

Fiscal impact to above line number: Cost Savings of $6,862.00

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Do not approve the services agreement. This alternative is not recommended.

IBM Credit LLC

Lease/Purchase Master Agreement For State and Local Government

This Lease/Purchase Master Agreement For State and Local Government ("Agreement") covers the terms and conditions under which IBM Credit LLC will finance various charges. In addition, attached is the form of Lease/Purchase Supplement and Exhibits thereto.

This Agreement and its applicable Supplements and Addenda are the complete agreement regarding the Financing Transactions and replace any prior oral or written communications between both parties. If there is a conflict of terms among the documents, the order of precedence will be as follows: (a) attachments or addenda to the Supplement, (b) Supplement, (c) attachments or addenda to the Agreement, (d) this Agreement.

By signing below, both parties agree to the terms of this Agreement. Once signed, any reproduction of this Agreement or a Supplement made by reliable means (for example, photocopy or facsimile) is considered an original.

Part 1 - Definitions
The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Lease/Purchase Master Agreement.

"Commencement Date" is the date when the term of a Financing Transaction and Lessee's obligation to pay Lease Payments for such Financing Transaction commence, which date shall be set forth in each Lease/Purchase Supplement.

"Equipment" means, collectively, the equipment lease/purchased pursuant to this Agreement, and with respect to each Lease/Purchase Supplement, the equipment described in each Lease/Purchase Supplement, and all repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Part 9.

"Event of Default" is defined in Section 13.1.

"Financed Items" means any software program licenses, maintenance, services, and other one-time charges to be lease/purchased pursuant to this Agreement, and with respect to each Lease/Purchase Supplement, such items described therein.

"Financing Transaction" means the lease/purchase transaction for Property set forth in any Lease/Purchase Supplement entered into pursuant this Agreement.

"Lease/Purchase Supplement" or **"Supplement"** means a Lease/Purchase Supplement in the form attached hereto.

Lease Payments" means the Lease Payments payable by Lessee under Part 6 of this Agreement and with respect to each Lease/Purchase Supplement, the Payment Amounts set forth in each Lease/Purchase Supplement in Exhibit 1 thereto.

"Lease Payment Dates" means the dates for the Lease Payments as set forth in the Payment Schedules for each Lease/Purchase Supplement.

"Lease Term" means, with respect to a Financing Transaction, the Original Term and all Renewal Terms. The Lease Term for each Financing Transaction entered into hereunder shall be set forth in a Lease/Purchase Supplement, as provided in Section 4.2.

"Lessee" or "Customer" means the entity identified as such on the signature line below, and its permitted successors and assigns.

"Lessor" means the entity identified as such on the signature line below, and its successors and assigns.

"Nonappropriation Event" is defined in Section 6.6.

"Original Term" means, with respect to a Financing Transaction, the period from the Commencement Date until the end of the budget year of Lessee in effect at the Commencement Date.

Agreed to: **City of Turlock**
Lessee

By_____
Authorized Signature

Name (Type or Print) _____

Title: _____
Date:

Customer Number: **1785517**

Customer Address: **156 SOUTH BROADWAY**

TURLOCK, CA 95380-5454

"Payment Schedule" means, with respect to a Financing Transaction, one or more schedules of lease payments for the Original Term and all Renewal Terms that indicates the Payment Due Date, the Payment, the Finance Charge and the Balance Due.

"Property" means, collectively, the Equipment and Financed Items lease/purchased pursuant to this Agreement, and with respect to each Lease/Purchase Supplement, the Equipment and Financed Items described in such Lease/Purchase Supplement.

"Purchase Price" means the amount that Lessee may, in its discretion, pay to Lessor to purchase the Property under a Lease/Purchase Supplement, as provided in Section 11.1 and as set forth in the Lease/Purchase Supplement.

"Renewal Terms" means the renewal terms of a Financing Transaction, each having a duration of one year and a term coextensive with Lessee's budget year.

"State" means the state or commonwealth where Lessee is located.

"Supplier" means International Business Machines Corporation "IBM", or any other manufacturer, vendor or provider of the Property leased/purchased by Lessee.

Part 2 - Separate Financings
Each Supplement executed and delivered under this Agreement shall be a separate financing, distinct from other Supplements. Without limiting the foregoing, upon the occurrence of an Event of Default or a Nonappropriation Event with respect to a Supplement, Lessor shall have the rights and remedies specified herein with respect to the Property financed and the Lease Payments payable under such Supplement, and except as expressly provided in Section 12.2 below, Lessor shall have no rights or remedies with respect to Property financed or Lease Payments payable under any other Supplements unless an Event of Default or Nonappropriation Event has also occurred under such other Supplements.

Part 3 –Lessee's Covenants
As of the Commencement Date for each Supplement executed and delivered hereunder, Lessee shall be deemed to represent, covenant and warrant for the benefit of Lessor as follows:
(a) Lessee is a public body corporate and politic duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and the Supplement and the transactions contemplated thereby and to perform all of its obligations thereunder. Lessee has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.

(b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic. To the extent Lessee should merge with another entity under the laws of the State, Lessee agrees that as a condition to such merger it will require that the remaining or resulting entity shall be assigned Lessee's rights and shall assume Lessee's obligations hereunder.

(c) Lessee has been duly authorized to execute and deliver this Agreement and the Supplement by proper action by its governing body, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Supplement, and Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the Supplement and the acquisition by Lessee of the Property thereunder. On or before the Commencement Date, Lessee shall cause to be executed an Opinion of Lessee's Counsel in substantially the form attached to the form of the Supplement as Exhibit 2 and a Lessee's Certificate in substantially the form attached to the form of the Supplement as Exhibit 3.

(d) During the Lease Term for the Supplement, the Property thereunder will perform and will be used by Lessee only for the purpose of performing essential governmental uses and public functions within the permissible scope of Lessee's authority.

Agreed to:
Lessor
IBM Credit LLC

By_____
Authorized Signature

Name (Type or Print) _____

Title: _____
Date:

Agreement Number: **8983103LP**
IBM Office Number: **1T8**
IBM Office Address: **6303 Barfield Road**
Atlanta, GA 30328

OK for Approval

(e) Lessee will provide Lessor with current financial statements, budgets and proof of appropriation for the ensuing budget year and other financial information relating to the ability of Lessee to continue this Agreement and the Supplement in such form and containing such information as may be requested by Lessor.

(f) Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 148 thereof, and the regulations of the Treasury Department thereunder, from time to time proposed or in effect, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of Lease Payments under the Supplement and will not use or permit the use of the Property in such a manner as to cause a Supplement to be a "private activity bond" under Section 141(a) of the Code. Lessee covenants and agrees that no part of the proceeds of the Supplement shall be invested in any securities, obligations or other investments except for the temporary period pending such use nor used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of the Agreement, would have caused any portion of the Supplement to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the regulations of the Treasury Department thereunder proposed or in effect at the time of such use and applicable to obligations issued on the date of issuance of the Supplement.

(g) The execution, delivery and performance of this Agreement and the Supplement and compliance with the provisions hereof and thereof by Lessee does not conflict with, or result in a violation or breach or constitute a default under, any resolution, bond, agreement, indenture, mortgage, note, lease of, or other instrument to which Lessee is a party or by which it is bound by any law or any rule, regulation, order or decree of any court, governmental agency or body having jurisdiction over Lessee or any of its activities or properties resulting in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any property or assets of Lessee or to which it is subject.

(h) Lessee's exact legal name is as set forth on the first page of this Agreement. Lessee will not change its legal name in any respect without giving thirty (30) days' prior notice to Lessor.

Part 4 - The Transactions

4.1 Lease of Property. On the Commencement Date of each Financing Transaction executed in the Supplement hereunder, Lessor will be deemed to demise, lease and let to Lessee, and Lessee will be deemed to rent, lease and hire from Lessor, the Property described in such Supplement, in accordance with this Agreement and such Supplement, for the Lease Term set forth in such Supplement.

4.2 Lease Term. The term of each Financing Transaction shall commence on the Commencement Date set forth in the Certificate of Acceptance and shall terminate upon payment of the final Lease Payment set forth in such Payment Schedule and the exercise of the Purchase Option described in Section 11.1, unless terminated sooner pursuant to this Agreement or the Supplement.

4.3 Delivery, Installation and Acceptance of Property. Lessee shall order the Property, shall cause the Property to be delivered and installed at the locations specified in the applicable Supplement, and shall pay all taxes, delivery costs and installation costs, if any, in connection therewith. To the extent funds are deposited under an escrow agreement for the acquisition of the Property, such funds shall be disbursed as provided therein. When the Property described in such Supplement is delivered, installed and accepted as to Lessee's specifications, Lessee shall immediately accept the Property and evidence said acceptance by executing and delivering to Lessor the Acceptance Certificate substantially in the form attached to the Supplement.

4.4 Assignment to Lessor. With respect to Property, Lessee assigns for security purposes to Lessor, effective upon Lessor signing the Supplement, its right to purchase the Property from its Supplier. Although Lessor shall have the obligation to pay the Supplier for the Property, not to exceed the principal amount set forth in the Supplement, title to the Property shall pass directly from Supplier to Lessee subject to Lessor's right under Section 7.3 hereunder, or unless otherwise provided. All other rights and obligations as defined in the agreement between Lessee and Lessee's Supplier governing the purchase of the Property ("Purchase Agreement") shall remain with Lessee. Lessee represents that it has reviewed and approved the Purchase Agreement. Lessor will not modify or rescind the Purchase Agreement.

4.5 Credit Review. For each Financing Transaction, Lessee consents to a reasonable credit review by Lessor.

Part 5 – Lessor's Rights of Access

5.1 Enjoyment of Property. Lessee shall during the Lease Term peaceably and quietly have, hold and enjoy the Property, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement. Neither Lessor nor its successors or assigns shall interfere with such quiet use and enjoyment during the Lease Term so long as Lessee is not in default under the subject Supplement.

5.2 Location; Inspection. The Property will be initially located or based at the location specified in the applicable Supplement. Upon reasonable advance request, Lessee agrees to allow Lessor to inspect the Equipment and its maintenance records during Lessee's normal business hours, subject to Lessee's reasonable security procedures. Lessee will affix to the Equipment any identifying labels supplied by Lessor indicating ownership.

Part 6 – Payments

6.1 Lease Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional, statutory or charter limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the faith and credit or taxing power of Lessee. Upon the appropriation of Lease Payments for a fiscal year, the Lease Payments for said fiscal year, and only the Lease Payments for said current fiscal year, shall be a binding obligation of Lessee; provided that such obligation shall not include a pledge of the taxing power of Lessee.

6.2 Payment of Lease Payments. Lessee shall promptly pay Lease Payments under each Supplement, exclusively from legally available funds, in lawful money of the United States of America, to Lessor in such amounts and on such dates as described in the applicable Payment Schedule, at Lessor's address set forth as the "remit to" address in the invoice, unless Lessor instructs Lessee otherwise. Lessee shall pay Lessor a charge on any delinquent Lease Payments in an amount sufficient to cover all additional costs and expenses incurred by Lessor from such delinquent Lease Payment. In addition, Lessee shall pay a late charge of five cents per dollar or the highest amount permitted by applicable law, whichever is lower, on all delinquent Lease Payments and interest on said delinquent amounts from the date such amounts were due until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

6.3 Interest Component. A portion of each Lease Payment due under each Supplement is paid as, and represents payment of, interest, and each Supplement hereunder shall set forth the interest component (or method of computation thereof) of each Lease Payment thereunder during the Lease Term.

6.4 Lease Payments to be Unconditional. SUBJECT TO SECTION 6.6, THE OBLIGATIONS OF LESSEE TO PAY THE LEASE PAYMENTS DUE UNDER THE SUPPLEMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS OR ACTIONS AGAINST ANY SUPPLIER AS PROVIDED IN SECTION 10.2.

6.5 Continuation of Lease by Lessee. Lessee intends to continue all Supplements entered into pursuant to this Agreement and to pay the Lease Payments thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the term of all Supplements can be obtained. Lessee agrees that during the budgeting process for each budget year its staff will provide to the governing body of Lessee notification of any Lease Payments due under the Supplements during the following budget year.

6.6 Nonappropriation. If, during the then current Original Term or Renewal Term, sufficient funds are not appropriated to make Lease Payments required under a Supplement for the following fiscal year, Lessee shall be deemed to not have renewed such Supplement for the following fiscal year and the Supplement shall terminate at the end of the then current Original Term or Renewal Term and Lessee shall not be obligated to make Lease Payments under said Supplement beyond the then current fiscal year for which funds have been appropriated. Upon the occurrence of such nonappropriation (a "Nonappropriation Event") Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated, deliver possession of the Property under said Supplement to Lessor. If Lessee fails to deliver possession of the Property to Lessor upon termination of said Supplement by reason of a Nonappropriation Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. In the event of a Nonappropriation Event under a Supplement, Lessee shall cease use of all software financed or acquired under the applicable Supplement and shall confirm and state in writing to Lessor that it has: (1) deleted or disabled all files and copies of the software from the equipment on which it was installed; (2) returned all software documentation, training manuals, and physical media on which the software was delivered; and (3) has no ability to use the returned software. Lessor may, by written instructions to any escrow agent who is holding proceeds of the Supplement, instruct such escrow agent to release all such proceeds and any earnings

thereon to Lessor, such sums to be credited to Lessee's obligations under the Supplement and this Agreement. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee. In the event of such nonappropriation, upon request from Lessor, Lessee agrees to provide in a timely manner, written evidence of such nonappropriation, a copy of the fiscal year budget in which such nonappropriation occurred and any other related documentation reasonably requested by Lessor.

Part 7 – Title; Security Interest

7.1 Title to the Property. Upon acceptance of the Equipment by Lessee and unless otherwise required by the laws of the State, title to the Equipment shall vest directly in Lessee from the Supplier, subject to Lessor's interests under the applicable Supplement and this Agreement. Software that the Lessee acquires from the Supplier and finances with Lessor remains the property of the licensor. Ownership of the software is governed by the license agreement between the licensor and the Lessee and is not affected by this Agreement.

7.2 Personal Property. The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

7.3 Security Interest. To the extent permitted by law and to secure the performance of all of Lessee's obligations under this Agreement with respect to a Supplement, including without limitation all Supplements now existing or hereafter executed, Lessee grants to Lessor, for the benefit of Lessor and its successors and assigns, a security interest constituting a first lien on Lessee's interest in all of the Equipment under the Supplement, whether now owned or hereafter acquired, all additions, attachments, alterations and accessions to the Equipment, all substitutions and replacements for the Equipment, and on any proceeds of any of the foregoing, including insurance proceeds. Lessee shall execute any additional documents, including financing statements, affidavits, notices and similar instruments, in form and substance satisfactory to Lessor, that Lessor deems necessary or appropriate to establish, maintain and perfect a security interest in the Equipment in favor of Lessor and its successors and assigns. Lessee hereby authorizes Lessor to file all financing statements that Lessor deems necessary or appropriate to establish, maintain and perfect such security interest.

Part 8 – Maintenance and Ancillary Charges

8.1 Maintenance of Equipment by Lessee. Lessee shall keep and maintain the Equipment in good condition and working order and in compliance with the manufacturer's specifications, shall use, operate and maintain the Equipment in conformity with all laws and regulations concerning the Equipment's ownership, possession, use and maintenance, and shall keep the Equipment free and clear of all liens and claims, other than those created by this Agreement. Lessee shall have sole responsibility to maintain and repair the Equipment. Should Lessee fail to maintain, preserve and keep the Equipment in good repair and working order and in accordance with manufacturer's specifications, and if requested by Lessor, Lessee will enter into maintenance contracts for the Equipment in form approved by Lessor and with approved providers.

8.2 Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Property free of all levies, liens and encumbrances, except for the interest of Lessor under this Agreement. The parties to this Agreement contemplate that the Property will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Property will be exempt from all property taxes. The Lease Payments payable by Lessee under this Agreement and the Supplements hereunder have been established to reflect the savings resulting from this exemption from taxation. Lessee will take such actions necessary under applicable law to obtain said exemption. Nevertheless, if the use, possession or acquisition of the Property is determined to be subject to taxation or later becomes subject to such taxes, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the Property. Lessee shall pay all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property. Lessee shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the then current fiscal year of the Lease Term for such Property.

8.3 Insurance. At its own expense, Lessee shall maintain (a) casualty insurance insuring the Property against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount equal to at least the outstanding principal component of Lease Payments, and (b) liability insurance that protects Lessor from liability in all events in an amount reasonably acceptable to Lessor, and (c) worker's compensation insurance covering all employees working on, in, near or about the Property; provided that Lessee may self-insure against all such risks. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. All such insurance shall be with insurers that are authorized to issue such insurance in the State. All such liability insurance shall name Lessor as an additional insured. All such casualty insurance shall contain a provision making any losses payable to Lessor and Lessee as their respective interests may appear. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification. Such changes shall not become effective without Lessor's prior written consent. Upon Lessor's request, Lessee shall, within thirty (30) days of such request, furnish to Lessor, for each Supplement, certificates evidencing such coverage, or, if Lessee self-insures, a written description of its self-insurance program together with a certification from Lessee's risk manager or insurance agent or consultant to the effect that Lessee's self-insurance program provides adequate coverage against the risks listed above.

8.4 Advances. In the event Lessee shall fail to either maintain the insurance required by this Agreement or keep the Property in good repair and working order, Lessor may, but shall be under no obligation to, purchase the required insurance and pay the cost of the premiums thereof or maintain and repair the Property and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the Lease Term for the Supplement for which the Property is under and shall be due and payable on the next Lease Payment Date and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date such amounts are advanced until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

Part 9 – Casualty Loss

9.1 Damage or Destruction. If (a) the Property under a Supplement or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Property under a Supplement or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessor and Lessee will cause the Net Proceeds (as hereinafter defined) of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt repair, restoration, modification or improvement of the Property, unless Lessee shall have exercised its option to purchase Lessor's interest in the Property if the Supplement so provides. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee and applied to the next Lease Payments coming due on the Supplement. For purposes of Section 8.3 and this Part 9, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim, condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

9.2 Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 9.1, Lessee shall (a) complete such repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds and, if Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Section 6.2; or (b) exercise its option to purchase Lessor's interest in the Property pursuant to the optional purchase provisions of the Supplement, if any. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after such purchase may be retained by Lessee.

Part 10 – Warranties; Use of Equipment and/or Financed Items

10.1 Disclaimer of Warranties. LESSOR MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND LESSOR HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS LEASED TO LESSEE "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY LESSEE. Lessee acknowledges that it has made (or will make) the selection of the Property from the Supplier based on its own judgment and expressly disclaims any reliance upon any statements or representations made by Lessor. Lessee understands and agrees that (a) neither the Supplier nor any sales representative or other agent of Supplier, is (i) an agent of Lessor, or (ii) authorized to make or alter any term or condition of this Agreement, and (b) no such waiver or alteration shall vary the terms of this Agreement unless expressly set forth herein. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Supplements, or the existence, furnishing, functioning or use of any item, product or service provided for in this Agreement or the Supplements.

10.2 Supplier's Warranties. Lessor hereby irrevocably assigns to Lessee all rights that Lessor may have to assert from time to time whatever claims and rights (including without limitation warranties) related to the Property against the Supplier. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Supplier of the Property, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the Supplier of the Property.

10.3 Use of the Property. Lessee will not install, use, operate or maintain the Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement and the applicable Supplement. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Property. In addition, Lessee agrees to comply in all respects with all laws of the jurisdiction in which its operations involving any item of Property may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of the Property (including compliance with any applicable privacy laws, rules or regulations and in conjunction therewith Lessee, upon cessation of the use, operation and control of, and prior to any disposition of the Equipment, shall destroy any data contained thereon that would be subject to such privacy laws, rules or regulations); provided that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Property or its interest or rights under this Agreement. Lessee shall promptly notify Lessor in writing of any pending or threatened investigation, inquiry, claim or action by any governmental authority which could adversely affect this Agreement, any Supplement or the Property thereunder.

10.4 Modifications. Subject to the provisions of this Section, Lessee shall have the right, at its own expense, to make alterations, additions, modifications or improvements to the Equipment. All such alterations, additions, modifications and improvements shall thereafter comprise part of the Equipment and shall be subject to the provisions of this Agreement. Such alterations, additions, modifications and improvements shall not in any way damage the Equipment, substantially alter its nature or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Equipment, on completion of any alterations, additions, modifications or improvements made pursuant to this Section, shall be of a value which is equal to or greater than the value of the Equipment immediately prior to the making of such alterations, additions, modifications and improvements. Lessee shall, at its own expense, make such alterations, additions, modifications and improvements to the Equipment as may be required from time to time by applicable law or by any governmental authority.

Part 11 – Prepayments

11.1 Deemed Purchase. Lessee shall be deemed to have purchased Lessor's entire interest in all of the Equipment subject to a Supplement and to have terminated any restrictions herein on the Property under such Supplement on the last day of the Lease Term for a Supplement, if the Supplement is still in effect on such day, upon payment in full of the Lease Payments due thereunder. Upon the deemed purchase as set forth in this Section 11.1 or payment of the purchase price pursuant to Section 11.2 hereof, under the applicable Supplement, and performance by Lessee of all other terms, conditions and provisions hereof, Lessor shall deliver to Lessee all such documents and instruments as Lessee may reasonably require to evidence the transfer, without warranty by or recourse to Lessor, of all of Lessor's right, title and interest in and to the Equipment subject to such Supplement to Lessee.

11.2 Option to Prepay. Lessee shall have the option to prepay (a) in whole, but not in part, the Lease Payments due under a Supplement on any Lease Payment Date, at the Prepayment Price set forth in the Lease Payment Schedule as the "Prepayment Price", or (b) in part, by requesting, in writing, the Prepayment Price for the portion of the remaining Lease Receivables allocable to the Property being prepaid plus any past due amounts, accrued interest to the date of such prepayment and any other monetary amounts due under the Supplement to Lessor. The Prepayment Price shall be an amount equal to the present value of the portion of the remaining Lease Payments allocable to the Property being prepaid multiplied by the Prepayment Fee Rate set forth in such Payment Schedule as the "Prepayment Fee Rate". Upon payment of the Prepayment Price and such other amounts due Lessor, Lessee shall be deemed to have purchased Lessor's entire interest in all Property being prepaid, and to have terminated any restrictions herein on the Property prepaid.

Part 12 – Assignment; Risk of Loss

12.1 Assignment by Lessor. Lessor's right, title and interest in, to and under each Supplement and the Property under such Supplement may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor without the consent of Lessee; provided that any assignment shall not be effective against the Lessee until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interests in this Agreement and the Supplements.

12.2 Supplements Separate Financings. Assignees of the Lessor's rights in one Supplement shall have no rights in any other Supplement unless such rights have been separately assigned.

12.3 Assignment and Subleasing by Lessee. NONE OF LESSEE'S RIGHT, TITLE AND INTEREST IN, TO AND UNDER THIS AGREEMENT OR ANY SUPPLEMENT AND IN THE PROPERTY MAY BE ASSIGNED, SUBLEASED OR ENCUMBERED BY LESSEE FOR ANY REASON, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. Any request by Lessee to assign a Supplement or any Property thereunder must be accompanied by an opinion of tax counsel satisfactory to Lessor that the assignment will cause no material change to the federal income tax treatment of the amounts payable as interest under the Supplement.

12.4 Risk of Loss Covenants. Lessee shall not be required to indemnify or hold Lessor harmless against liabilities arising from the Agreement. However, as between Lessor and Lessee, and to the extent permitted by law, Lessee shall bear the risk of loss for, shall pay directly, and shall defend Lessor against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Property, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that (provided that Lessee has complied with its obligations under Section 10.3) Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after Lessee has surrendered possession of the Property in accordance with the terms of the Agreement to Lessor or that arise directly from the gross negligence or willful misconduct of the Lessor.

Part 13 – Defaults and Remedies

13.1 Events of Default Defined. Any of the following shall constitute an "Event of Default" under a Supplement:

(a) Failure by Lessee to pay any Lease Payment under the Supplement or other payment required to be paid with respect thereto at the time specified therein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed with respect to the Supplement, other than as referred to in subparagraph (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to the Supplement or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(e) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days.

The foregoing provisions of Section 13.1 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to perform its agreements under this Agreement and the Supplement (other than the obligations on the part of Lessee contained in Part 6 hereof) Lessee shall not be in default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee.

A Nonappropriation Event is not an Event of Default.

13.2 Remedies on Default. Whenever any Event of Default exists with respect to a Supplement, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:
(a) Without terminating the Supplement, and by written notice to Lessee, Lessor may declare all Lease Payments and other amounts payable by Lessee thereunder to the end of the then current budget year of Lessee to be due, including without limitation delinquent Lease Payments under the Supplement from prior budget years, and such amounts shall thereafter bear interest at the rate of 12% per annum or the maximum rate permitted by applicable law, whichever is less;

(b) Lessor may terminate the Supplement, may enter the premises where the Property subject to the Supplement is located and retake possession of the Equipment and require Lessee to discontinue use of any Financed Items, or require Lessee, at Lessee's expense, to promptly return any or all of the Equipment to the possession of Lessor at such place within the United States as Lessor shall specify and require Lessee to discontinue use of any Financed Items, and Lessor may thereafter dispose of the Property in accordance with Article 9 of the Uniform Commercial Code in effect in the State; provided, however, that any proceeds from the disposition of the property in excess of the sum required to (i) pay off any outstanding principal component of Lease Payments, (ii) pay any other amounts then due under the Supplement, and (iii) pay Lessor's costs and expenses associated with the disposition of the Property (including attorneys fees), shall be paid to Lessee or such other creditor of Lessee as may be entitled thereto, and further provided that no deficiency shall be allowed against Lessee. Lessee shall confirm and state in writing to Lessor that it has: (1) deleted or disabled all files and copies of the software from the equipment on which it was installed; (2) returned all software documentation, training manuals, and physical media on which the software was delivered; and (3) has no ability to use the returned software;

(c) By written notice to any escrow agent who is holding proceeds of the Supplement, Lessor may instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to payment of Lessee's obligations under the Supplement;

(d) Lessor may take any action, at law or in equity, that is permitted by applicable law and that may appear necessary or desirable to enforce or to protect any of its rights under the Supplement and this Agreement.

13.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Part it shall not be necessary to give any notice, other than such notice as may be required in this Part.

13.4 Costs and Attorney Fees. Upon the occurrence of an Event of Default by Lessee in the performance of any term of this Agreement, Lessee agrees to pay to Lessor or reimburse Lessor for, in addition to all other amounts due hereunder, all of Lessor's costs of collection, including reasonable attorney fees, whether or not suit or action is filed thereon. Any such costs shall be immediately due and payable upon written notice and demand given to Lessee, shall be secured by this Agreement until paid and shall bear interest at the rate of 12% per annum or the maximum amount permitted by law, whichever is less. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial or on appeal of such suit or action or in any bankruptcy proceeding, in addition to all other sums provided by law.

Part 14 – General

14.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party), to any assignee at its address as it appears on the registration books maintained by Lessee.

14.2 Arbitrage Certifications. Lessee shall be deemed to make the following representations and covenants as of the Commencement Date for each Supplement:
(a) The estimated total costs, including taxes, freight, installation, cost of issuance, of the Financed Items under the Supplement will not be less than the total principal amount of the Lease Payments.

(b) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Lease Payments under the Supplement, or (ii) that may be used solely to prevent a default in the payment of the Lease Payments under the Supplement.

(c) The Property under the Supplement has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Lease Payments under the Supplement.

(d) There are no other obligations of Lessee which (i) are being sold within 15 days of the Commencement Date of the Supplement; (ii) are being sold pursuant to the same plan of financing as the Supplement; and (iii) are expected to be paid from substantially the same source of funds.

(e) The officer or official who has executed the Supplement on Lessee's behalf is familiar with Lessee's expectations regarding this Section 14.2. To the best of Lessee's knowledge, information and belief, the facts and estimates set forth in herein are accurate and the expectations of Lessee set forth herein are reasonable.

14.3 Further Assurances. Lessee agrees to execute such other and further documents, including, without limitation, confirmatory financing statements, continuation statements, certificates of title and the like, and to take all such action as may be necessary or appropriate, from time to time, in the reasonable opinion of Lessor, to perfect, confirm, establish, reestablish, continue, or complete the interests of Lessor in this Agreement and the Supplements, to consummate the transactions contemplated hereby and thereby, and to carry out the purposes and intentions of this Agreement and the Supplements.

14.4 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns. Any county, township, municipality, political subdivision or affiliate (collectively, "Affiliate") of Lessee may enter into a Financing Transaction under this Agreement by signing a Supplement referencing this Agreement and so will be bound to the terms and conditions of this Agreement as Lessee. Nothing in this Agreement obligates the Lessor to provide financing to an Affiliate

14.5 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

14.6 Waiver of Jury Trials. Lessee and Lessor hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the actions of Lessor or Lessee in the negotiation, administration, performance or enforcement hereof.

14.7 Amendments, Changes and Modifications. This Agreement may be amended in writing by Lessor and Lessee to the extent the amendment or modification does not apply to outstanding Supplements at the time of such amendment or modification

14.8 Execution in Counterparts. This Agreement and the Supplements hereunder may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14.9 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

14.10 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections o5f this Agreement.

LESSEE'S CERTIFICATE

Re: **Lease/Purchase Supplement No.** LD0029665 to Lease/Purchase Master Agreement No. 8983103LP between IBM Credit LLC and City of Turlock ("Lessee").

The undersigned, being the duly elected, qualified and acting _____ of the Lessee do hereby certify, as of _____, as follows:

1. Lessee did, at a meeting of the governing body of the Lessee held _____ by resolution or ordinance duly enacted, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Lease/Purchase Supplement and any related documents entered into pursuant to the Lease/Purchase Master Agreement (the "Lease/Purchase Supplement") by the following named representative of Lessee, to wit:

NAME OF EXECUTING OFFICIAL	TITLE OF EXECUTING OFFICIAL	SIGNATURE OF EXECUTING OFFICIAL
And/ Or		

2. The above-named representative of the Lessee held at the time of such authorization and holds at the present time the office set forth above.

3. The meeting(s) of the governing body of the Lessee at which the Lease/Purchase Supplement was approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, and the enactment approving the Lease/Purchase Supplement and authorizing the execution thereof has not been altered or rescinded. All meetings of the governing body of Lessee relating to the authorization and delivery of the Lease/Purchase Supplement have been: (a) held within the geographic boundaries of the Lessee; (b) open to the public, allowing all people to attend; (c) conducted in accordance with internal procedures of the governing body; and (d) conducted in accordance with the charter of the Lessee, if any, and the laws of the State.

4. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default or a Non-appropriation Event (as such terms are defined in the Lease/Purchase Master Agreement (the "Master Agreement")) exists at the date hereof with respect to this Lease/Purchase Supplement or any other Lease/Purchase Supplements under the Master Agreement.

5. The acquisition of all of the Property under the Lease/Purchase Supplement has been duly authorized by the governing body of Lessee.

6. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Lease Payments scheduled to come due during the current budget year under the Lease/Purchase Supplement and to meet its other obligations for the current budget year and such funds have not been expended for other purposes.

7. Lessee represents and warrants that the Property is essential to the proper, efficient and economic functioning of Lessee or to the services that Lessee provides; and Lessee has immediate need for and expects to make immediate use of substantially all of the Property, which need is not temporary or expected to diminish in the foreseeable future.

8. Bank Qualified Tax-Exempt Obligation under Section 265 (Consult tax counsel for applicable provisions.).

____ Lessee hereby designates this Lease/Purchase Supplement as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. Lessee reasonably anticipates issuing tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds and including all tax-exempt obligations of subordinate entities of the Lessee) during the calendar year in which the Commencement Date of this Lease/Purchase Supplement falls, in an amount not exceeding $10,000,000.

or

____ Not applicable

9. Has Lessee ever terminated a lease or financing contract prior to the expiration of its term (including all permitted renewal terms) due to nonappropriation or other provision permitting Lessee to terminate in Lessee's discretion?

Yes ___ No ___. If yes, then please describe the circumstances of such termination:

_____

_____.

10. As of the date hereof, no litigation is pending, (or, to my knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Lease/Purchase Supplement or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Lease/Purchase Supplement, or the validity of the Master Agreement or the Lease/Purchase Supplement, or the payment of principal of or interest on, the Lease/Purchase Supplement; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Lease/Purchase Supplement; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Lease/Purchase Supplement.

Lessee: City of Turlock
By:
Title:
SIGNER MUST NOT BE THE SAME AS THE EXECUTING OFFICIAL(S) SHOWN ABOVE.

LEASE/PURCHASE SUPPLEMENT

Date Prepared: 09/11/14

244 N. BROADWAY
Address of Customer
~~156 SOUTH BROADWAY~~
TURLOCK , CA 95380-5454

244 N. BROADWAY
Installed at Location
~~156 SOUTH BROADWAY~~
TURLOCK , CA 95380-5454

Customer No: 1785517
IBM CSO Location: PAH
Lease Payment
Master Agreement No: 8983103LP
LPMA Amendment Nos:
Quote Validity Date: 08/31/14
Referenced Quote Letter No: Q0330767404

Supplement No: LD0029665
Referenced Purchase Agreement No:
Referenced License Agreement No:
Referenced Trade-In Agreement No:
Associated Supplement No:
Addendum No:

Single Equipment Location
IBM/LPMA Customer Number
1785517/1797571

Customer Reference

CSO Location Address
PHOENIX CSO
PO BOX 10349
PHOENIX , AZ 85064-0349

Line NO.	Location Customer Number IBM/LPMA*	Machine or LPM Type/Model Feature	IBM Plant Order or MES or Serial Number	Description	Purchase Price or One-Time Charges or Other Amount	State and Local Taxes	Credit (From IBM Trade-In Agreement) and/or Down Payment	Amount Financed	Interest Rate	Payment Amount	Option	Term (Number of Payment Periods)	Estimated Installation Date or Intended Financing Date or Effective Date of Additional License / Planning Date
001	1785517 1797571	8286/41A		Power S814	14,240.80			14,240.80	1.28	**	IG	60	9/01/14
002	1785517 1797571	9SSR/001	H045183	REMARKETED SERVICEELITE	13,852.86			13,852.86	2.20		S'	60	9/01/14
003	1785517 1797571	9992/003	H045184	REMARKTD IBM SW/SW BRAND SVC	22,323.00			22,323.00	1.37		S'	60	9/01/14
004	1785517 1797571	9994/001	H045185	VENDOR SOURCED PRODUCTS/SVCS	7,083.34			7,083.34	2.20		T'	60	9/01/14

**** See payment schedule attached. If there is a conflict in Total Payments between the Supplement and the Payment Schedule, the Payment Schedule takes precedence**

TOTAL FROM ALL PAGES:

PURCHASE PRICE OR ONE TIME CHARGES OR OTHER AMOUNT	$57,500.00
TRADE-IN/CREDIT DOWN PAYMENT	
STATE OR LOCAL TAXES	
AMOUNT FINANCED	$57,500.00
*TAX ON FINANCE CHARGE (WHEN APPLICABLE THIS TAX IS PAYABLE WITH FIRST INSTALLMENT)	

PAYMENT PERIOD	Fiscal year Start Date	Supplier Name	Interest Commencement	Total Payment (all pages)
1. Monthly [X] Annual [ ] 2. Other (specify): Schedule attached (check): [ ]	10/01 Month/Day	AVNET INC Supplier Customer no. 8431809		**

THE LEASE/PURCHASE MASTER AGREEMENT ("AGREEMENT") REFERENCED ABOVE SHALL BE INCORPORATED HEREIN BY REFERENCE. LESSEE HEREUNDER SHALL BE BOUND TO THE TERMS AND CONDITIONS OF THE AGREEMENT AS LESSEE. THE AGREEMENT, THIS SUPPLEMENT AND ANY APPLICABLE ATTACHMENTS OR ADDENDA ARE THE COMPLETE, EXCLUSIVE STATEMENT OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREIN. THESE DOCUMENTS SUPERSEDE ANY PRIOR ORAL OR WRITTEN COMMUNICATIONS BETWEEN THE PARTIES. BY SIGNING BELOW, LESSEE REPRESENTS AND WARRANTS THAT LESSEE'S NAME AS SET FORTH IN THE SIGNATURE BLOCK BELOW IS LESSEE'S EXACT LEGAL NAME AND THE INFORMATION IDENTIFYING LESSEE'S STATE OF ORGANIZATION IS TRUE, ACCURATE AND COMPLETE IN ALL RESPECTS. BY SIGNING BELOW, BOTH PARTIES AGREE TO THE TERMS REPRESENTED BY THIS AGREEMENT AS IT MAY BE AMENDED OR MODIFIED. DELIVERY OF AN EXECUTED COPY OF ANY OF THESE DOCUMENTS BY FACSIMILE OR OTHER RELIABLE MEANS SHALL BE DEEMED TO BE AS EFFECTIVE FOR ALL PURPOSES AS DELIVERY OF A MANUALLY EXECUTED COPY. LESSEE ACKNOWLEDGES THAT WE MAY MAINTAIN A COPY OF THESE DOCUMENTS IN ELECTRONIC FORM AND AGREES THAT COPY REPRODUCED FROM SUCH ELECTRONIC FORM OR BY ANY OTHER RELIABLE MEANS (FOR EXAMPLE, PHOTOCOPY, IMAGE OR FACSIMILE) SHALL IN ALL RESPECTS BE CONSIDERED EQUIVALENT TO AN ORIGINAL.

Accepted by:
CITY OF TURLOCK
Lessee

IBM CREDIT LLC
Lessor

By: _____ Authorized Signature

By: _____ Authorized Signature

Name (Type or Print) Title Date

Name (Type or Print) Title Date

State of Organization: CA

Z126-5742-05 (03/12)

Additional Terms and Conditions

OPTION CODES

OPTION I - Taxable Lease/Purchase for Machine or a Modification for a State and Local Lessee
OPTION IG - Tax-Exempt Lease/Purchase for a Machine or a Modification for a State and Local Lessee
OPTION S - Taxable Lease/Purchase for an IBM Program or Service for a State and Local Lessee
OPTION S' - Tax-Exempt Lease/Purchase for an IBM Program or Service for a State and Local Lessee
OPTION T - Taxable Lease/Purchase for a non-IBM Program or Service for a State and Local Lessee
OPTION T' - Tax-Exempt Lease/Purchase for a non-IBM Program or Service for a State and Local Lessee

Each Supplement shall consist of Property that solely qualifies for tax-exempt interest treatment under the Internal Revenue Code [Option Codes IG, S', T'] (a "Tax-Exempt Supplement") or solely Property that does not qualify for tax-exempt interest treatment under the Internal Revenue Code [Option Codes I, S, T] (a "Taxable Supplement").

Additional Documentation

In addition to this Lease/Purchase Supplement, and as a requirement to entering into of this Lease/Purchase Supplement, Lessee shall provide in completed and executed form, acceptable to Lessor, the additional documents attached to this Lease/Purchase Supplement that may include:

a. Exhibit 1 - Payment Schedule for this Supplement

b. Exhibit 2 - Opinion of Counsel to the Lessee

c. Exhibit 3 - Lessee's Certificate

d. Exhibit 4(a) - Certificate of Acceptance, or

e. Exhibit 4(b) - Acknowledgement of Commencement Date for Property Supplied by IBM

f. Exhibit 5 - Form 8038-G or 8038-GC (Tax-Exempt Supplement only)

g. State Addendum, if applicable and attached

h. Prepaid Maintenance Certification of Maintenance Provider (Tax-Exempt Supplement only)

i. Prepaid Maintenance Certification of Maintenance Vendor (Tax-Exempt Supplement only)

Supplement Number LD0029665

The Lease Payment schedule for this Supplement sets forth the scheduled Lease Payments under this Supplement. The Commencement Date for this Supplement is set forth in the Lease Payment Schedule.

With respect to Financed Items consisting of prepaid maintenance, Lessee accepts the terms of the prepaid maintenance and agrees to look solely to the maintenance provider for provision of such maintenance in accordance with the terms of the contracts with the maintenance provided for said maintenance. Acceptance for purposes of this Supplement shall be the date of acceptance by Lessee in the Certificate of Acceptance.

Lessee agrees that it will timely assist in the completion and execution of the Form 8038-G or Form 8038-GC and that upon said execution, Lessor is authorized and directed to file said form with the appropriate office of the Internal Revenue Service.

Capitalized terms set forth in this Supplement or in the attachments, but not defined herein or therein, shall have the meaning set forth in the Lease/Purchase Master Agreement. The complete terms and conditions of the Lease/Purchase Master Agreement are incorporated by reference.

The interest rates applicable to this Supplement that provide for Tax-Exempt Lease/Purchase are based on many factors including Lessee's underlying obligation qualifying to pay interest that is treated as exempt by the Internal Revenue Service (IRS) from federal income tax under Section 103(a) of the Internal Revenue Code (Code), as well as many proprietary factors including pricing assumptions made by Lessor as to whether Lessor anticipates being able to recognize any benefits of this tax exemption.

The interest rates applicable to this Supplement may reflect fees or other consideration Lessor receives from Lessee's Suppliers that is passed on to Lessee in the form of lower rates.

For a Taxable Supplement, the following provisions of the Lease/Purchase Master Agreement shall not be applicable: (i) Part 3, paragraph (f), (ii) Section 14.2.

Lessor reserves the right to reject any invoice that is: (i) not for information technology Equipment or related software or services, or (ii) dated more than 90 days prior to the date Lessor receives authorization from Lessee to finance.

IBM Credit LLC

Certificate of Acceptance

Exhibit 4

Customer Number: 1785517
Name and Address
156 SOUTH BROADWAY
TURLOCK , CA 95380-5454

IBM Office Address
PO BOX 10349
PHOENIX , AZ 85064-0349

Agreement Number: 8983103LP
Supplement No: LD0029665

Email:
Tel No.:
Fax No.: - -
Attn:
Customer Reference:

Email:
Tel No: - -
Fax No: - -
Attn:

Location Customer	Accepted Item Type	Model	Plant Order or MES No.	Contract Serial No. Description	Manufacturer's Serial No. (if applicable)
1785517	8286	41A		Power S814	
1785517	9SSR	001		H045183 REMARKETED SERVICEELITE	
1785517	9992	003		H045184 REMARKTD IBM SW/SW BRAND SVC	
1785517	9994	001		H045185 VENDOR SOURCED PRODUCTS/SVCS	

The undersigned ("Customer") is a customer under the agreement referenced above ("Agreement") with either IBM Credit LLC or International Business Machines Corporation (in either case, "Us" or "We"). Customer represents and certifies that Customer has accepted the items listed above or itemized on an attachment ("Accepted Item(s)") to this Certificate of Acceptance ("COA") on the date indicated below. Customer authorizes us to pay Customer's supplier for the Accepted Item(s). Amounts due under the Agreement shall commence upon the date Customer indicates below unless we have otherwise noted on the Supplement.

If Customer is subject to procurement or appropriation laws or regulations, Customer represents and certifies that our direct payment to Customer's supplier for the Accepted Item(s) will be in full compliance with any and all relevant state laws and regulations or any other legal requirements relating to Customer's procurement or appropriation activities.

In order for this COA to be effective, we must be provided with the serial numbers if applicable for each Accepted Item. Customer authorizes us to complete or update any item identification information on the referenced Agreement or Supplement to the Agreement for any accepted item without Customer's further action or consent.

Delivery of an executed copy of this COA by facsimile, email or any other reliable means shall be deemed to be as effective for all purposes as delivery of a manually executed copy. Customer understands that we may maintain a copy of this COA in electronic form and agrees that a copy produced from such electronic form or by any other reliable means (for example, photocopy, image or facsimile) shall in all respects be considered equivalent to an original. By signing below, Customer represents and warrants that Customer's name as set forth in the signature block below is Customer's exact legal name and the information identifying Customer's state of organization is true, accurate and complete in all respects.

Accepted by: CITY OF TURLOCK
Customer

By: _____
Authorized Signature

_____
Name (Type or Print)

Date Customer accepts item(s) listed above. Must be filled in by Customer.

Date: _____ **(MM/DD/YYYY)**

State of Organization: CA

PLEASE RETURN TO IBM OFFICE ADDRESS, FAX NUMBER OR EMAIL ADDRESS LISTED ABOVE WITHIN 10 DAYS OF RECEIPT

EXHIBIT 1
Payment Schedule

Re: Lease/Purchase Supplement No. LD0029665 to Lease/Purchase Master Agreement between IBM Credit LLC and City of Turlock.

Commencement Date

The Commencement Date shall be the date of acceptance of the Property as set forth in the Acceptance Certificate executed by the Lessee and filed with the Lessor.

Payment Schedule

Total Principal Amount: $57,500.00
Schedule Interest Rate: 1.65%
Prepayment Fee Rate: 2.00%

Payment No	Payment Due Dates	Lease Payments	Principal Component	Interest Component	Prepayment Price (After making pmt for said Due Date)
1	11/1/2014	$999.10	$918.51	$80.59	$57,713.00
2	12/1/2014	$999.10	$922.36	$76.74	$56,772.00
3	1/1/2015	$999.10	$921.09	$78.01	$55,833.00
4	2/1/2015	$999.10	$922.39	$76.71	$54,892.00
5	3/1/2015	$999.10	$930.98	$68.12	$53,942.00
6	4/1/2015	$999.10	$924.98	$74.12	$52,999.00
7	5/1/2015	$999.10	$928.63	$70.47	$52,052.00
8	6/1/2015	$999.10	$927.58	$71.52	$51,106.00
9	7/1/2015	$999.10	$931.15	$67.95	$50,156.00
10	8/1/2015	$999.10	$930.19	$68.91	$49,207.00
11	9/1/2015	$999.10	$931.49	$67.61	$48,257.00
12	10/1/2015	$999.10	$934.94	$64.16	$47,303.00
13	11/1/2015	$999.10	$934.11	$64.99	$46,350.00
14	12/1/2015	$999.10	$937.47	$61.63	$45,394.00
15	1/1/2016	$999.10	$936.73	$62.37	$44,439.00
16	2/1/2016	$999.10	$938.04	$61.06	$43,482.00
17	3/1/2016	$999.10	$943.21	$55.89	$42,520.00
18	4/1/2016	$999.10	$940.68	$58.42	$41,560.00

EXHIBIT I

Payment Schedule - Page 2

Payment No	Payment Due Dates	Lease Payments	Principal Component	Interest Component	Prepayment Price (After making pmt for said Due Date)
19	5/1/2016	$999.10	$943.84	$55.26	$40,598.00
20	6/1/2016	$999.10	$943.32	$55.78	$39,635.00
21	7/1/2016	$999.10	$946.40	$52.70	$38,670.00
22	8/1/2016	$999.10	$945.97	$53.13	$37,705.00
23	9/1/2016	$999.10	$947.29	$51.81	$36,739.00
24	10/1/2016	$999.10	$950.25	$48.85	$35,770.00
25	11/1/2016	$999.10	$949.95	$49.15	$34,801.00
26	12/1/2016	$999.10	$952.83	$46.27	$33,829.00
27	1/1/2017	$999.10	$952.62	$46.48	$32,857.00
28	2/1/2017	$999.10	$953.95	$45.15	$31,884.00
29	3/1/2017	$999.10	$959.53	$39.57	$30,906.00
30	4/1/2017	$999.10	$956.64	$42.46	$29,930.00
31	5/1/2017	$999.10	$959.30	$39.80	$28,951.00
32	6/1/2017	$999.10	$959.32	$39.78	$27,973.00
33	7/1/2017	$999.10	$961.91	$37.19	$26,992.00
34	8/1/2017	$999.10	$962.01	$37.09	$26,010.00
35	9/1/2017	$999.10	$963.36	$35.74	$25,028.00
36	10/1/2017	$999.10	$965.82	$33.28	$24,043.00
37	11/1/2017	$999.10	$966.07	$33.03	$23,057.00
38	12/1/2017	$999.10	$968.44	$30.66	$22,069.00
39	1/1/2018	$999.10	$968.78	$30.32	$21,081.00
40	2/1/2018	$999.10	$970.13	$28.97	$20,092.00
41	3/1/2018	$999.10	$974.17	$24.93	$19,098.00
42	4/1/2018	$999.10	$972.86	$26.24	$18,106.00
43	5/1/2018	$999.10	$975.03	$24.07	$17,111.00
44	6/1/2018	$999.10	$975.59	$23.51	$16,116.00
45	7/1/2018	$999.10	$977.67	$21.43	$15,119.00
46	8/1/2018	$999.10	$978.33	$20.77	$14,121.00
47	9/1/2018	$999.10	$979.70	$19.40	$13,122.00
48	10/1/2018	$999.10	$981.65	$17.45	$12,120.00
49	11/1/2018	$999.10	$982.45	$16.65	$11,118.00
50	12/1/2018	$999.10	$984.32	$14.78	$10,114.00
51	1/1/2019	$999.10	$985.20	$13.90	$9,109.00
52	2/1/2019	$999.10	$986.58	$12.52	$8,103.00
53	3/1/2019	$999.10	$989.04	$10.06	$7,094.00
54	4/1/2019	$999.10	$989.35	$9.75	$6,085.00

EXHIBIT 1

Payment Schedule - Page 3

Payment No	Payment Due Dates	Lease Payments	Principal Component	Interest Component	Prepayment Price (After making pmt for said Due Date)
55	5/1/2019	$999.10	$991.01	$8.09	$5,074.00
56	6/1/2019	$999.10	$992.13	$6.97	$4,062.00
57	7/1/2019	$999.10	$993.70	$5.40	$3,049.00
58	8/1/2019	$999.10	$994.91	$4.19	$2,034.00
59	9/1/2019	$999.10	$996.31	$2.79	$1,018.00
60	10/1/2019	$999.10	$997.75	$1.35	$0.00

Lessee:	City of Turlock
By:	
Name:	
Title:	

OPINION OF LESSEE'S COUNSEL

[To be provided on letterhead of Lessee's counsel.]

CITY OF TURLOCK
156 SOUTH BROADWAY
TURLOCK CA
95380-5454

IBM Credit LLC
6303 BARFIELD RD
ATLANTA GA
30328-4233

RE: Lease/Purchase Supplement No. LD0029665 to Lease/Purchase Master Agreement between IBM Credit LLC and City of Turlock .

Ladies and Gentlemen:

We have acted as special counsel to City of Turlock ("Lessee"), in connection with the Lease/Purchase Master Agreement, dated as of 8983103LP (the "Master Agreement"), between City of Turlock , as lessee, and IBM Credit LLC, as lessor ("Lessor"), and the execution of Lease/Purchase Supplement No LD0029665 (the "Lease/Purchase Supplement") pursuant to the Master Agreement. We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

All capitalized terms not otherwise defined herein shall have the meanings provided in the Master Agreement and Lease/Purchase Supplement.

As to questions of fact material to our opinion, we have relied upon the representations of Lessee in the Master Agreement and the Lease/Purchase Supplement and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion that, under existing law:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.

2. Lessee has all requisite power and authority to enter into the Master Agreement and the Lease/Purchase Supplement and to perform its obligations thereunder.

3. The execution, delivery and performance of the Master Agreement and the Lease/Purchase Supplement by Lessee has been duly authorized by all necessary action on the part of Lessee.

4. All proceedings of Lessee and its governing body relating to the authorization and approval of the Master Agreement and the Lease/Purchase Supplement, the execution thereof and the transactions contemplated thereby have been conducted in accordance with all applicable open meeting laws and all other applicable state and federal laws.

5. Lessee has acquired or has arranged for the acquisition of the Property subject to the Lease/Purchase Supplement, and has entered into the Master Agreement and the Lease/Purchase Supplement, in compliance with all applicable public bidding laws.

6. Lessee has obtained all consents and approvals of other governmental authorities or agencies which may be required for the execution, delivery and performance by Lessee of the Master Agreement and the Lease/Purchase Supplement.

OPINION OF LESSEE'S COUNSEL

7. The Master Agreement and the Lease/Purchase Supplement have been duly executed and delivered by Lessee and constitute legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except insofar as the enforcement thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other laws of equitable principles of general application, or of application to municipalities or political subdivisions such as the Lessee, affecting remedies or creditors' rights generally, and to the exercise of judicial discretion in appropriate cases.

8. As of the date hereof, based on such inquiry and investigation as we have deemed sufficient, no litigation is pending, (or, to our knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Lease/Purchase Supplement or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Lease/Purchase Supplement, or the validity of the Master Agreement or the Lease/Purchase Supplement, or the payment of principal of or interest on, the Lease/Purchase Supplement; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Lease/Purchase Supplement; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Lease/Purchase Supplement.

This opinion may be relied upon by Lessor, its successors and assigns, and any other legal counsel who provides an opinion with respect to the Lease/Purchase Supplement.

Very truly yours,

By: _____

Dated: _____

Disclosure letter to Public Sector End User: (may be transmitted via email)

End User Name _____
End User Address _____
City, State Zip _____
Date _____

SUBJECT: Disclosure of possible IBM Global Financing ("IGF") Business Partner fee payments for marketing activities related to IGF lease or financing transactions or Asset Recovery Services ("ARS") offerings.
Dear _____ [End user signatory on lease or ARS contract]

In accordance with IGF's policy to pay fees for certain marketing activities performed by resellers to the public sector, we are disclosing that we may receive a fee from IGF for such marketing activities in relation to _____ [DESCRIBE LEASE/FINANCING OR ARS OFFERING TRANSACTION USING A ROF DEAL QUOTE # OR IGF LEASE SUPPLEMENT #]. We will also provide a copy of this disclosure to IGF for its records.

Regards,

Prepaid Maintenance Certification of Maintenance Vendor

The undersigned, of Vertical VAR, LLC, does hereby certify with respect to Lease/Purchase Supplement No. LD0029665 entered into pursuant to Lease/Purchase Master Agreement, No. 8983103LP (the "Agreement"), between IBM Credit LLC and City of Turlock (the "Customer") as follows. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement:

The Agreement finances the prepayment of maintenance services in the amount of $_____ (the "Multi-Year Services Payment") for services being provided by IBM Corp. to Customer pursuant to a maintenance contract between Customer and Vertical VAR, LLC (the "Maintenance Contract").

Certifications for Tax-Exemption. The terms of the Maintenance Contract, including specifically the prepayment provisions of the Maintenance Contract, are substantially the same as the terms Vertical VAR, LLC has made available to, and has actually entered into contracts with, a substantial percentage of persons and or companies who are for profit entities and are not beneficiaries of tax exempt financing. The substantial percentage referenced in the immediately preceding sentence is a percentage derived by dividing (1) the number of contracts with substantially the same terms as the Maintenance Contract, including specifically the prepayment provisions of the Maintenance Contract, entered into by Vertical VAR, LLC, with persons and or companies who are for profit entities and are not beneficiaries of tax exempt financing by (2) the number of all contracts entered into by Vertical VAR, LLC with substantially the same terms as the Maintenance Contract, including specifically the prepayment provisions of the Maintenance Contract.

IN WITNESS WHEREOF, Vertical VAR, LLC, this Certificate to be executed by their duly authorized representative.

Vertical VAR, LLC
By:
Name:
Title:

5P

Council Synopsis

December 9, 2014

From: Robert A. Jackson, Chief of Police

Prepared by: Nino Amirfar, Police Lieutenant

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Authorizing the approval and execution of an agreement between the City of Turlock and Utility Telephone Company for internet service for the police department, in an amount exceed $772.40 per month, and authorizing the City Manager or his designee to execute renewal agreements as necessary

2. DISCUSSION OF ISSUE:

The Police Department is currently utilizing a T1 communications line supplied by AT&T at a cost of $796.90 per month. This T1 line has reached its maximum capacity of 512kb and, per ATT, is at end of life and will not be updated.

The police department's current and future security and technology needs have exceeded this T1 lines bandwidth capability and must be upgraded to a more efficient and larger bandwidth capability.

The new internet provider will have 30mb capabilities and will provide for future expansion of technology for the police department and its mobile data platform in the police vehicles.

3. BASIS FOR RECOMMENDATION:

All service agreements require review and approval of City Council. The Police Department's current security and technology needs regarding the bandwidth capabilities of the current T1 line has exceeded the capabilities of the 512kb T1 line. ATT has advised that this technology is at end of life and will not be updating the system.

The police department's current requirements for security, per Department of Justice standards, and demand for more bandwidth can be addressed by incorporating a Virtual Provider network (VPN) through a Secured Internet Protocol (IPSEC) utilizing a new internet line at 30MB. This will allow the police department to continue to expand the technology and security demands now and

into the future. The additional internet line service will also add a third layer of redundancy to our city-wide internet service and will not cause any additional strain on the current city-wide internet usage.

Our current budgeted monies of $796.90 (T1 Line) will cover the reoccurring monthly cost of this service agreement at $772.40 and is a cost savings while improving current capabilities.

Strategic Plan Initiative: B. POLICY INITIATIVE – FISCAL RESPONSIBILITY

Goal(s): c. Ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions, such as California State University, Stanislaus.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Currently budgeted at line number:

110-20-200.45001_000 "Telephone General"

Fiscal impact to above line number: Savings of $24.50 per month

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Do not approve the services agreement. This alternative is not recommended.

Voice and Internet Service Agreement

UtilityTelephone

Order Information

☑ New Account ☐ Renewal ☐ Add to Existing ☐ Change to Existing ☐ Move to New Address

Account Number	Account Executive	Date	Customer Desired Date / Move Date and Time
		11/5/2014	

Primary Service Information

Legal Name City of Turlock	**Primary Contact Name** Carlo Grossman
Service Address 244 N Broadway	**Telephone Number** 2096685542x1314
City, State, Zip Turlock, CA 95380	**Primary Contact Email** cgrossman@turlock.ca.us
Primary Telephone Number 209-668-5542	**Alternate / Technical Contact Name**
	Telephone Number
	Billing Contact Name
	Telephone Number

Term Contract Length:	37 Months

☐ Add to Existing Contract Term

Service Description

Svc Code	Product	Rate Plan	Qnty	Monthly Charge	Call Pkgs & Surcharges	Total MRC	Non Reoccuring Charges
	EOC Internet		1	$ 882.35	$ -	$ 882.35	$ -
	30/30Mbps		0	$ -	$ -	$ -	$ -
	Installation		1	$ -	$ -	$ -	$ 1,000.00
	Installation waived		1	$ -	$ -	$ -	$ (1,000.00)
			0	$ -	$ -	$ -	$ -
	Independence Credit (expires on 12-15-14)		1	$ -	$ -	$ -	$ (750.00)
			0	$ -	$ -	$ -	$ -
			0	$ -	$ -	$ -	$ -
			0	$ -	$ -	$ -	$ -
			0	$ -	$ -	$ -	$ -
			0	$ -	$ -	$ -	$ -
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			0	$ -	$ -	$ -	$ -
			0	$ -	$ -	$ -	$ -
			0	$ -	$ -	$ -	$ -
					Subtotal	$ 882.35	$ (750.00)
					Adjustments	$ (132.35)	$ -
					Grand Total	**$ 750.00**	**$ (750.00)**

Allow International Calling?
☐ Yes ☑ No

Totals do not include state/federal usages taxes and surcharges

The undersigned ("Customer") hereby confirms: (i) Customer has chosen to convert all lines listed on this form to Utility Telephone local telephone service; (ii) Customer understands that only one carrier may serve as the preferred interstate or interLATA carrier for any line and selects Utility Telephone as the carrier for those services (including international calling) on all lines; (iii) Customer understands that only one carrier may serve as the preferred IntraLATA or local toll service carrier for any line and selects Utility Telephone as the carrier for that service on all lines; (iv) Customer has had the opportunity to consult with Utility Telephone as to whether any fee will apply to any preferred carrier change; and (v) Utility Telephone is authorized to act as Customer's agent for the purpose of making the changes and installing all other specified services. Rates and terms for all services are as listed on this form and the attached terms and conditions. If purchasing Internet service, Customer agrees to Utility Telephone's Internet Acceptable Use Policy as posted at:http://www.utilitytelephone.com/company_documents.php. In addition to the charges specified in the service agreement, the Customer shall pay all applicable federal, state, and local sales, use, and excise taxes, and other assessments imposed on Customer by government agencies in connection with the provision of the Services, plus amounts imposed on UTI by governmental agencies in connection with the Services, such as mandatory federal Universal Service Fund contributions and other mandatory assessments, including TRS fees and FCC Regulatory fees.

AGREED BY _____ **PRINTED** _____ **TITLE** _____ **DATE** _____
Customer

AGREED BY _____ **PRINTED** _____ **TITLE** _____ **DATE** _____
Utility Telephone, Inc.

Date:_____ Initials: OK for Signature

Voice and Internet Service Agreement

UtilityTelephone

Account Number	Customer Name	Sales Executive
0	City of Turlock	0

Caller ID (note below)

CNAM	Outbound Caller ID Number
City of Turlock	

Telephone Numbers

Number	Number Action	BTN	Features & Notes	Number Use
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Directory Listing

☑ Main ☐ Additional

DL Listing With	Business / First & Last Name		Listed Number
☐ First & Last Name ☑ Business	City of Turlock		
Street,City Abbreviation & ZIP Code		**Directory Listing Style**	**Yellow Pages Heading**
244 N Broadway Turlock, CA 95380		☑ Straight Line ☐ Caption	
Directory Listing Notes			

Date:__________ Initials:________

Voice and Internet Service Agreement

UtilityTelephone

Account Number	Customer Name	Sales Executive
0	City of Turlock	0

Customer Vendors

☐ Use Utility Telecom for Phone Vending ☐ Use Utility Telecom for Data Vending ☐ Use Utility Telecom for Wiring

Data Vendor Company	Data Vendor Contact Name	Data Vendor Phone	Data Vendor Email Address
Self Vending	Carlo Grossman	209-668-5542 x 1314	cgrossman@turlock.ca.us
Voice Vendor Company	**Voice Vendor Contact Name**	**Voice Vendor Phone**	**Voice Vendor Email Address**

Important: Use of the Utility Telecom technicians for inside wiring, voice or data vending work will result in additional hourly labor charges

☐ Use Choice Facilities

Financial Information

☐ Sole Proprietorship ☐ Partnership ☐ LLP ☐ LLC ☐ Corporation			Federal Tax ID / Soc Sec #
Billing Contact Name	Telephone #	☐ Electronic Billing ☐ Paper Billing	Billing Email Address
☐ Utility Telephone Corporate/Child Account		Parent Account Number	

Billing Address

☑ Same as Service Address ☐ Service Location Move ☐ Alternate Billing Address

Street Address	City, State, Zip

Order Notes

Utility Telephone to install a 30/30Mbps EoC circuit with 5 IP Addresses.

Date:_____ Initials:_____

Voice and Internet Service Agreement

UtilityTelephone

Account Number	Customer Name	Sales Executive
126461	Onda Corp	David Walsh

Pursuant to this agreement ("Agreement"), entered into between Utility Telephone, Inc. ("Utility") and the customer identified on this agreement ("Customer") (each of Utility and Customer a "party"), Utility agrees to provide and Customer agrees to purchase the services and/or equipment ("Service" and/or "Leased Equipment") described on the reverse side hereof or in addenda attached hereto ("each a Service Description"), at the prices and on the terms and conditions stated in such Service Description and below, and as provided in relevant tariffs. Addenda executed from time to time shall become part of this Agreement by reference hereto. Each Service Description may describe (i) the requested service commencement date ("Requested Service Date"), (ii) the agreed duration of Customer's purchase ("Term"), (iii) the recurring charge ("Service Charge), non-recurring charge and any other charges, and (iv) other pertinent information. This contract shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may from time to time direct in the exercise of its jurisdiction.

1. INITIATION AND TERM OF SERVICE: With respect to each Service Description, the Term shall begin on the later of the Requested Service Date or the day following the date on which Utility notifies Customer that the Service is ready for use ("Service Commencement Date") and shall continue for the applicable Term. At the expiration of the Term, this Agreement shall continue in effect with respect to the Service on a month-to-month basis, until canceled by either party on 30 days notice; provided, however, that the Service Charge during such period shall be the then current monthly rate provided by tariff or Utility's standard price list. Customer shall be responsible for obtaining and maintaining rights-of-way and facilities required for access from Utility's network to Customer's premises, as well as necessary space and other facilities for Utility and Customer equipment.
2. PAYMENT: Except as otherwise required by tariff, Customer agrees to pay Utility monthly throughout the Term, on the Service Commencement Date and on the first of each month (or other) billing period thereafter, a Service Charge at the rate stated as "Recurring" charge for each Service Description. The first Service Charge shall be prorated from the Service Commencement Date through the end of the calendar month in which the Service Commencement Date occurs. The non-recurring charges and other charges are payable with the first Service Charge. Except as otherwise agreed, Utility shall submit a monthly invoice to Customer; and payment of all charges shall be due at the address shown on the invoice no later than 30 days after the invoice date ("Due Date"). Any amounts not paid within fifteen (15) days after the Due Date ("Delinquent Charges") will be subject to a late charge of 1.5% per month or the maximum lawful rate, whichever is lower ("Late Charge"). Any applicable surcharge, federal, state, local use, excise or sales tax or similar levy, chargeable to or against Utility because of the Service provided to Customer, shall be charged to and paid by Customer in addition to the Service Charge and other charges under this Agreement. Customer agrees to pay all costs, including reasonable attorney's fees, expended in collecting Delinquent Charges.
3. SUSPENSION OR TERMINATION OF SERVICE: Utility may suspend or terminate service (i) if Customer fails to pay all Delinquent Charges within 7 days after written notice of termination or (ii) if Customer fails, within 30 days after written notice, to comply with this Agreement or any applicable tariff.
4. INTERRUPTION OF SERVICE; CREDIT: Utility will not provide a credit allowance for interruption of service caused by the Customer's facilities, equipment, or systems. Utility will allow for interruptions in exchange telephone service of 24 hours or more not due to conduct of Customer an amount equal to the fixed monthly charges for exchange service multiplied by the ratio of the days of interruption to thirty days. When interruptions continue beyond 24 hours, credit allowance will be given in successive 24-hour multiples.
5. LIMITATION OF LIABILITY; LIMITATION OF WARRANTY: EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL UTILITY BE LIABLE FOR ANY DAMAGES, EITHER DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, ACTUAL OR PUNITIVE, OR ANY LOST PROFITS OF ANY KIND, ARISING OUT OF MISTAKES, ACCIDENTS, ERRORS, OMISSIONS, INTERRUPTIONS, DELAYS, OR DEFECTS IN TRANSMISSION, (INCLUDING THOSE WHICH MAY BE REQUIRED FOR COMPLIANCE WITH RULES OR ORDERS OF REGULATORY OR JUDICIAL AUTHORITIES), ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE OBLIGATIONS OF UTILITY HEREUNDER. CUSTOMER AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OF UTILITY'S PERFORMANCE HEREUNDER SHALL BE CREDIT FOR SERVICE INTERRUPTION AS PROVIDED IN SECTION 4, ABOVE, OR APPLICABLE TARIFF. UTILITY MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE OF ANY SERVICE, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXCLUDED AND DISCLAIMED.
6. CANCELLATION: (A) If a Service Commencement Date does not occur within 90 days after the Requested Service Date, Customer may cancel this Agreement with respect to such Service without liability for any cancellation charge, by 30 days written notice to Utility. (B) Except as permitted in subsection (A), if Customer cancels any Service, or if Utility terminates any Service pursuant to Section 3 above, then Customer shall pay Utility a cancellation charge in the amount of 75% of the remaining Service Charge payable during the remainder of the Term. (C) Either party may cancel this Agreement without liability if Utility is prohibited from furnishing Service or if any material rate or term contained herein is substantially changed by final order of a court, administrative agency or other tribunal of competent jurisdiction.
7. NON-TARIFFED SERVICES AND EQUIPMENT: The provision by Utility and the purchase or lease by Customer of non-tariffed services and/or equipment in connection with this Agreement shall be subject to the terms and conditions of this Agreement except as superseded by the terms and conditions of any pertinent addenda attached hereto.
8. FORCE MAJEURE: If Utility's performance hereunder is impaired by any cause beyond Utility's reasonable control, including without limitation acts of God, fire, explosion, materially adverse weather condition, inability to obtain needed utilities or services, accidents, breakdown of equipment, machinery or facilities, radiation, compliance with applicable law or regulation, public emergency, civil strife, war or strike ("Force Majeure Condition"), then such performance shall be excused to the extent of such impairment. Utility shall resume performance with reasonable dispatch after cessation of the Force Majeure Condition. If Utility's performance is impaired by a force Majeure Condition for a period exceeding sixty-days (60), Customer may cancel the affected Service without liability for a cancellation charge.
9. ADDITIONAL PROVISIONS:
(A) Non-Waiver. The failure of either party to give notice of default or to enforce or insist upon compliance of any of the terms or conditions of this Agreement shall not constitute a waiver of any term or condition hereof; and the waiver of any term or condition of this Agreement, or the granting of an extension of time for performance shall not constitute a waiver or extension of time with respect to any other matter, including future application of the same provision.
(B) Disputes – Arbitration. Except for disputes regarding Customer's failure to pay for Service as provided in this Agreement, if any dispute cannot be resolved by negotiation between the two parties, either party may by notice require that the dispute be submitted to binding arbitration by a single arbitrator, at a location reasonably selected by the party giving such notice, under the Commercial Arbitration Rules of the American Arbitration Association.
(C) Entire Agreement. This Agreement, including Addenda and matters incorporated herein by reference, contains the entire understanding of the parties, and supersedes any prior quotations, proposals, arrangements, or understandings relating to the subject matter hereof. No subsequent agreement between the parties concerning Service shall be effective unless contained in a writing signed by both parties.
(D) Assignment. Customer may not assign or transfer its rights or obligations under this Agreement without the prior written consent of Utility, which shall not be reasonably withheld.
(E) Notices. Required or permitted notices shall be in writing and delivered by registered or certified mail return receipt requested, postage prepaid, if to Customer, to a person identified as a "Service Contact" and if to Utility, to Contract Administrator, Utility Telephone, Inc., 1121 Waterloo Road, Stockton, California, 95205, or as otherwise provided by proper notice hereunder, and the effective date of any notice under this Agreement shall be the date of receipt or refusal of delivery.
(F) Regulatory Jurisdiction. Provision by Utility of Service and other matters related to this Agreement are subject to applicable federal, state and local regulatory authority.
(G) Severability. Each Service described in a Service Description is deemed a separate Service; and termination of any Service shall not affect any other Services.
(H) Partial Invalidity. If any provision of this Agreement shall be held invalid or unenforceable under applicable law, the remainder shall not thereby be affected and shall be given full effect.

Line item "I" removed

11-12-14

Date:_____ Initials:_____

5Q

Council Synopsis

December 9, 2014

From: Robert Jackson, Chief of Police

Prepared by: Miguel Pacheco, Police Lieutenant

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Approving the purchase of new firearms and related equipment, including the trade-in of existing firearms and awarding the bid to LC Action Police Supply of San Jose, California, in an amount not to exceed $36,254

Resolution: Appropriating an additional $6,254 to account number 240-00-000-213.51153 "Police Services – Weapons" from Fund 240 "Small Equipment Replacement-Police Services" reserve balance for the purchase of new firearms and related equipment

2. DISCUSSION OF ISSUE:

On October 14, 2014, City Council approved the trade-in of firearms that the department is taking out of service, to an authorized firearms dealer, in order to obtain a trade-in value which will result in a reduced cost of replacement of firearms. The Police Department intends to replace all Department issued pistols during this fiscal year. This was done to ensure that the officers' pistols will continue to function properly and to provide uniformity with Department issued pistols.

Current pistols (Glock 22, Glock 23 and their compensated variations) are an older generation. This previous design allowed for frame deformation when a weapon-mounted light was installed. This deformation caused malfunctions during the firing cycle of the weapon. This malfunction would leave the officer defenseless in a shooting situation, jeopardizing the officer's life and the lives of the community members they are protecting. Glock has remedied this flaw in the Generation 4 with reinforcement in the light mounting area, which prevents the aforementioned deformation.

Additionally, many of the current firearms are approaching the end of their lifecycle and experience wear in critical componentry areas. These areas are not regularly repaired due to the cost of the repairs. The recommended course of action is to replace these firearms before a catastrophic failure occurs.

Pursuant to the Turlock Municipal Code, Title 2, Chapter 7, Section §2-7-09(c) (5) Award of Contract shall be awarded by the City Council to the lowest responsible bidder.

The Purchasing officer solicited formal bids for new firearms and related equipment and a trade-in value of the existing firearms for the Turlock Police Department on Request for Bid (RFB) No. 14-296 by publishing the formal bid notice in the local newspaper, the City's website and at City Hall bulletin board and contacting potential bidders by fax or email.

Five (5) vendors were solicited and one local vendor within the City limits did not submit a bid. Three (3) vendors submitted bids. The City's 3% local vendor preference was not a factor in determining the lowest responsive and responsible bidder for this purchase. Police staff and Purchasing evaluated the bids. Award bid recap is based on the purchased price of new firearms, related equipment and trade-in value of existing firearms, plus sales tax.

Description	LC Action Police Supply	ProForce Law Enforcement	Adamson Police Products
New Firearms & Equip.	$60,064	$64,048	$56,966.26
Trade-In Value Price	-26,379	-25,848	-22,635
Subtotal	$33,585	$38,200	$34,331
Sales Tax	$2,569	$2,913	$2,618
Grand Total	$36,254	$41,223	$36,949

3. BASIS FOR RECOMMENDATION:

City staff recommendation is to award the purchase of seventy-eight (78) pistols, seven (7) rifles and related equipment, plus trade-in value of existing firearms to the lowest responsive bidder meeting all specifications and requirements to LC Action Police Supply of San Jose, in an amount not to exceed $36,354.

Strategic Plan Initiative: B. FISCAL RESPONSIBLITY

Goal(s): 1(a). Identify smart revenue opportunities including but not limited to grants and outside sources of funding.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact: $6,254

Budget Amendment: Appropriate an additional $6,254 to account number 240-00-000-213.51153 "Police Services – Weapons" from Fund 240 "Small Equipment Replacement-Police Services" reserve balance for the purchase of new firearms and related equipment.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A.

7. ALTERNATIVES:

A. Council could deny purchase of new firearms for the Police Department. However, staff does not recommend this as an alternative; the purchase of new firearms will ensure that the officers pistols will continue to function properly and to provide uniformity with Department issued pistols.

CITY OF TURLOCK - BID 14-296 SUMMARY
POLICE FIREARMS AND RELATED EQUIPMENT

Item #	Description	Qty	① LC ACTION POLICE SAN JOSE, CA		② PROFORCE LAW ENFORCEMENT Prescott Az 86301	
			Unit Price	Extended	Unit Price	Extended
1	*Glock 21 Generation 4*	78	$ 469.00	$ 36,582.00	$ 469.00	$ 36,582.00
2	*Streamlight TLR-1 weapon light*	78	$ 90.83	$ 7,084.74	$ 86.38	$ 6,737.64
3	*Safariland 6360 Holster*	78	$ 80.85	$ 6,306.30	$ 131.15	$ 10,229.70
4	*Black Basketweave double magazine pouch with flap enclosure*	78	$ 20.13	$ 1,570.14	$ 24.87	$ 1,939.86
5	*Colt LE56944 (safe/semi) rifles*	7	$ 1,082.00	$ 7,574.00	$ 1,131.87	$ 7,923.09
6	*TKR-1s HP RMT (includes)*	7	$ 135.30	$ 947.10	$ 90.83	$ 635.81
			Subtotal	$ 60,064.28		$ 64,048.10
Prices for Purchasing Existing Inventory			Unit Price	Extended	Unit Price	Extended
1	*Glock 22 Pistols*	40	$ (235.00)	$ (9,400.00)	$ (225.00)	$ (9,000.00)
2	*Glock 22C Pistols*	26	$ (241.00)	$ (6,266.00)	$ (225.00)	$ (5,850.00)
3	*Glock 23 Pistols*	18	$ (235.00)	$ (4,230.00)	$ (252.00)	$ (4,536.00)
4	*Glock 23C Pistols*	18	$ (241.00)	$ (4,338.00)	$ (252.00)	$ (4,536.00)
5	*Remington 700 Rifle with Bipod*	1	$ (325.00)	$ (325.00)	$ (225.00)	$ (225.00)
6	*Bushmaster AR-15 (full/semi/safe) rifles with force end grip integrated Surefire lighting systems.*	7	$ (260.00)	$ (1,820.00)	$ (243.00)	$ (1,701.00)
			Subtotal	*$ (26,379.00)*		*$ (25,848.00)*
			Total Cost for New Firearms & Trade-In:	*$ 33,685.28*		*$ 38,200.10*
			Sales Tax:	*$ 2,568.50*		*$ 2,912.76*
			Grand Total:	*$ 36,253.78*	*$*	*41,112.86*

Item #	Description	Qty	③ Adamson Police Products Hayward, CA 94545	
			Unit Price	Extended
1	*Glock 21 Generation 4 (Quoted Sig P320-40-BSS)*	78	$ 449.00	$ 35,022.00
2	*Streamlight TLR-1 weapon light*	78	$ 95.39	$ 7,440.42
3	*Safariland 6360 Holster (Quoted 6320-450-41X)*	78	$ 51.99	$ 4,055.22
4	*Black Basketweave d/magazine pouch w/flap enclosure (7902-2534*	78	$ 24.15	$ 1,883.70
5	*Colt LE56944 (safe/semi) rifles*	7	$ 1,081.50	$ 7,570.50
6	*TKR-1s HP RMT (includes)*	7	$ 142.06	$ 994.42
			Subtotal	$ 56,966.26
Prices for Purchasing Existing Inventory			Unit Price	Extended
1	*Glock 22 Pistols*	40	$ (200.00)	$ (8,000.00)
2	*Glock 22C Pistols*	26	$ (210.00)	$ (5,460.00)
3	*Glock 23 Pistols*	18	$ (200.00)	$ (3,600.00)
4	*Glock 23C Pistols*	18	$ (210.00)	$ (3,780.00)
5	*Remington 700 Rifle with Bipod*	1	$ (295.00)	$ (295.00)
6	*Bushmaster AR-15 (full/semi/safe) rifles with force end integrated Surefire lighting systems.*	7	$ (200.00)	$ (1,400.00)
			Subtotal	*$ (22,535.00)*
			Total Cost for New Firearms & Trade-In:	*$ 34,431.26*
			Sales Tax:	*$ 2,625.38*
			Grand Total:	*$ 37,056.64*

**No Bid response from the following vendors:*

1) Sierra Arms Corporation of Modesto, CA
2) Alquist Arms of Turlock, CA

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF APPROPRIATING AN ADDITIONAL $6,254 TO ACCOUNT NUMBER 240-00-000-213.51153 "POLICE SERVICES- WEAPONS" FROM FUND 240 "SMALL EQUIPMENT REPLACEMENT- POLICE SERVICES" RESERVE BALANCE FOR THE PURCHASE OF NEW FIREARMS AND RELATED EQUIPMENT	}	**RESOLUTION NO. 2014**

WHEREAS, staff has identified the need to replace all department-issue pistols, seven (7) rifles, and related equipment during the 2014/2015 fiscal year; and

WHEREAS, staff conducted the formal bid process to include the trade-in value of the existing firearms that the department is replacing with the lowest responsible bidder, LC Action, providing a bid of $36,254; and

WHEREAS, Fund 240 "Small Equipment Replacement – Police Services" has a reserve balance with sufficient funding to accommodate the transfer of $6,254 necessary for the replacement of all handguns, seven (7) rifles, and related equipment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby authorized the appropriation of an additional $6,254 to account number 240-00-000-213.51153 "Police Services – Weapons" from Fund 240 "Small Equipment Replacement – Police Services" for the purchase of new firearms and related equipment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9thth day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk
City of Turlock, County
of Stanislaus, State of California

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Council Synopsis

December 9, 2014

From: Robert A. Jackson, Chief of Police

Prepared by: Michelle Backeroff, Crime Prevention Specialist

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Accepting monetary donations of $3,125 and various property donations valued at $3,455, received July through September of Fiscal Year 2014/15 from various donors, to be utilized in support of the City's Crime Prevention Unit, Volunteers in Police Services (VIPS), and Public Safety Open House

2. DISCUSSION OF ISSUE:

Staff received monetary donations in the amount of $3,125 and various property items valued at $3,455 for our crime prevention outreach, Annual Public Safety Open House, and Volunteers In Police Services (VIPS) programs. Through local interactions in the community, crime prevention and volunteer staff have successfully engaged private businesses, service groups, and other local sponsors in creating a sense of community service and interest in supporting crime prevention awareness. Monies and products received through donations assists in offsetting costs to the City of Turlock.

3. BASIS FOR RECOMMENDATION:

Staff is recommending the monetary and property donations be appropriated for use in support of the City's ongoing crime prevention efforts.

Strategic Plan Initiative: H. POLICY INITIATIVE – COMMUNITY PROGRAMS, FACILITIES, AND INFRASTRUCTURE.

Goal(s): b. (iv) Community Programs
Develop ongoing community partnerships, collaborations and sponsorships which will result in enhanced programming and services to the community as well as leveraging City resources.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact:
Increase of revenue to line number 266-20-255-351.37200_000 "Police Donations" of $3,125.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

None.

7. ALTERNATIVES:

A. Council may choose not to accept these donations.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF ACCEPTING MONETARY DONATIONS OF $3,125 AND VARIOUS PROPERTY DONATIONS VALUED AT $3,455, RECEIVED JULY THROUGH SEPTEMBER OF FISCAL YEAR 2014/15 FROM VARIOUS DONORS, TO BE UTILIZED IN SUPPORT OF THE CITY'S CRIME PREVENTION UNIT, VOLUNTEERS IN POLICE SERVICES (VIPS), AND PUBLIC SAFETY OPEN HOUSE	}	**RESOLUTION NO. 2014-**

WHEREAS, staff received donations from various donors in the community during the first quarter of fiscal year 2014-15 (Summarized in Exhibit A); and

WHEREAS, these donations will be used to support the current and future needs of the City's Crime Prevention Unit, Volunteers in Police Services (VIPS), and the 2014 Annual Public Safety Open House.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby accept monetary donations of $3,125 and various property donations valued at $3,455, received July through September of Fiscal Year 2014/15 from various donors, to be utilized in support of the City's Crime Prevention Unit, Volunteers in Police Services (VIPS), and Public Safety Open House.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

TURLOCK POLICE DEPARTMENT DONATIONS

CRIME PREVENTION – VOLUNTEERS IN POLICE SERVICES – OPEN HOUSE

July 2014 –September 2014

Total Cash/Check Value: $3,125
Total Property Value: $3,065

Total Value: $6,190

Item Donated	Month Donated	Item Value	Cause	Line Item #	Citizens / Organization name	Citizens / Organization Address
$150 Check	July 2014	$150	National Night Out	266-20-255-351-37200-000	Dairy Farmers of America	600 Trade Wy, Turlock, CA 95380
$200 Check	July 2014	$200	National Night Out	266-20-255-351-37200-000	Smith Chevrolet	1601 Auto Mall Dr, Turlock, CA 95380
2 Car wash coupon books	July 2014	$50	National Night Out	N/A	Prime Shine	487 N Golden State Blvd, Turlock, CA 95380
20 Cases Water 1 BBQ Raffle	July 2014-August 2014	$230	National Night Out	N/A	Costless	255 W Main St, Turlock, CA 95380
$250 Gift Card Pallet of Water Target Bags	July 2014	$550	National Night Out	N/A	Target	3000 Countryside Dr, Turlock, CA 95380
Coloring Books & Pencils	July 2014	$150	National Night Out	N/A	TID	333 E Canal Dr, Turlock, CA 95380
$500 Check	July 2014	$500	National Night Out	266-20-255-351-37200-000	Turlock Associated	244 N. Broadway, Turlock Ca, 95380

Exhibit A

					Police Officers	
$50 Credit	July 2014	$50	National Night Out	N/A	Foster Farms	1000 Davis St, Livingston, CA 95334
$75 Gift card	July 2014	$75	National Night Out	N/A	Costco	2955 N Tegner Rd, Turlock, CA 95380
$100 check	July 2014	$100	National Night Out	266-20-255-351-37200-000	Turlock City Employees Association	244 N. Broadway, Turlock Ca, 95380
Fire hats , BBQ condiments, Chips, Cookies, Cooks for BBQ	July 2014	$450	National Night Out	N/A	Random Acts of Kindness	244 N. Broadway, Turlock Ca, 95380
600 hotdog buns	July 2014	$220	National Night Out	N/A	Walmart Neighborhood Market	2480 Geer Rd, Turlock, CA 95380
100 Oreo cookies	July 2014	$75	National Night Out	N/A	Nabisco	2480 Geer Rd, Turlock, CA 95380
$50 gift certificate	July 2014	$50	National Night Out	N/A	Home Depot	2800 Countryside Dr, Turlock, CA 95380
2 Gift baskets 2:1 discount for all parties	July 2014	$100	National Night Out	N/A	Papa Johns	2830 Geer Rd, Turlock, CA 95382
$50 check	July 2014	$50	National Night Out	266-20-255-351-37200-000	Teen challenge	522 W Main St, Turlock, CA 95380
$500 check	July 2014	$500	National Night Out	266-20-255-351-37200-000	Assyrian American Civic club	2618 N Golden State Blvd, Turlock, CA

$40 gift certificate	July 2014	$40	National Night Out	N/A	Savemart (Lander)	1631 Lander Ave Turlock, CA
$25 gift certificate	July 2014	$25	National Night Out	N/A	Savemart (Geer)	2595 Geer Rd Turlock, CA
$25 gift certificate	July 2014	$25	National Night Out	N/A	Angelinis	2251 Geer Rd, Turlock, CA 95382
Wall Clock	July 2014	$40	National Night Out	N/A	Tractor Supply	201 N Walnut Rd, Turlock, CA 95380
$25 check	July 2014	$25	National Night Out	266-20-255-351-37200-000	Dr. Rex Anderson	700 Crane Ave Turlock CA 95380
$200 check	July 2014	$200	National Night Out	266-20-255-351-37200-000	Hallack Concrete	3130 Fulkerth Rd, Turlock, CA 95380
$25 gift certificate	July 2014	$25	National Night Out	N/A	Hot Rod Diner	130 S Walnut Rd, Turlock, CA 95380
$250 check	July 2014	$250	National Night Out	266-20-255-351-37200-000	Jaureguys (paint and decorating)	436 E Main St, Turlock, CA 95380
$20 gift card	July 2014	$20	National Night Out	N/A	Safeway	3051 Countryside Dr, Turlock, CA 95380
$500 check	July 2014	$500	National Night Out	266-20-255-351-37200-000	Rotary club	P.O. Box 1713, Turlock, CA, 95381
Gift basket -	July 2014	$100	National Night Out	N/A	Bliss Salon	2160 Geer Rd, Turlock, CA 95382
Gift basket	July 2014	$75	National Night Out	N/A	E Main body & Spa	1115 E Main St, Turlock, CA 95380
Limousine	July 2014	$390	National Night Out	N/A	Luxury Limousine	4400 Moore Rd. Ceres, Ca 95307

Helium	July 2014	$25	National Night Out	N/A	Turlock Flower Shop	208 W Main St Turlock, CA
Volunteers / Van	July 2014	$0	National Night Out	N/A	American Red Cross	1230 6th St, Modesto, CA 95354
Volunteers/ Moonshine	July 2014	$0	National Night Out	N/A	Goldenstate Blood Hound (moonshine)	Search and Rescue PO Box 577673 Modesto Ca. 95357
Gift card & candle	July 2014	$75	National Night Out	N/A	The SPA (Olive ave)	733 E Olive Ave, Turlock, CA 95380
$500 check	July 2014	$500	National Night Out	266-20-255-351-37200-000	Turlock Chamber Commerce	115 S Golden State Blvd, Turlock, CA 95380
Grocery bags	July 2014	$40	National Night Out	N/A	Raleys	2900 Geer Rd, Turlock, CA 95382
10 cases - soda	August 2014	$50	National Night Out	N/A	Pepsi	200 River Rd, Modesto, CA 95351
Gift basket	August 2014	$25	National Night Out	N/A	Mocse Credit union	321 E Main St, Turlock, CA 95380
Gift basket	August 2014	$50	National Night Out	N/A	Orchard Supply	3051 Geer Rd, Turlock, CA 95382
Stuffed Animals & Blankets	August 2014	$200	VIPS, Operation Blue Santa	N/A	Anonymous Citizens	Anonymous
Pallet of water	September 2014	$250	TPD Events	N/A	Niagara Bottling LLC	1025 Runway Dr. Stockton, CA 95206
$150 Check	September 2014	$150	Public Safety Open House	266-20-255-351-37200-000	Dairy Farmers of America	600 Trade Wy, Turlock, CA 95380

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Council Synopsis

December 9, 2014

From: Tim Lohman, Fire Chief

Prepared by: Betty Gonzalez / Tim Lohman

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Authorizing the sole source procurement of Holmatro tools and equipment from Fire Service Specifications & Supply (FS3) of Santa Ana, California, in an amount not to exceed $57,000, without compliance to the formal bid procedure in accordance with Section 2-7-08(b)(2) of the Turlock Municipal Code, and appropriating $6,300 to account number 240-00-000-306.44030_000 "Minor Equipment Maintenance" from Fund 240 "Small Equipment Replacement-Fire Equipment Replacement" reserve balance for the purchase of two (2) rescue tool systems

Resolution: Approving the sole source procurement of Holmatro rescue tools and equipment for future purchases from Fire Service Specifications & Supply (FS3) of Santa Ana, California, for the Turlock Fire Department, without compliance to the formal bid procedure in accordance with Section 2-7-08(b)(2) of the Turlock Municipal Code

2. DISCUSSION OF ISSUE:

Since 1989, the Turlock Fire Department has utilized the Holmatro system rescue tools and equipment to extricate and disentangle trapped victims involved in traffic collisions. The fire department currently has two (2) sets of heavy rescue equipment which are strategically located on two (2) of the department's four (4) fire engines. The two (2) sets of tools are fourteen (14) and twenty five (25) years old and are at the end of expected life.

With the design and construction of today's modern vehicles, it is essential to have rescue tools that can meet the needs of firefighters working to free trapped victims in motor vehicle accidents. The new upgraded hydraulic pumps will support the operation of two (2) rescue tools to be working at the same time rather than our current one (1) tool. Turlock firefighters have comfort in the Holmatro rescue tool systems and great confidence in its ability to perform in difficult situations.

Tool safety is an important component to our fire department and Holmatro is the only rescue tool manufacturer in the world that is UL Listed for safety and durability. Holmatro rescue equipment was chosen by the Fire Department because of their excellent warranty, ease of use, cutting strengths, and economical pricing. Holmatro rescue tools operate at a working pressure of over 10,000 psi and deploy a patented "CORE Technology" hose that offers a faster, easier and safer system for the user.

Fire Service Specifications and Supply (FS3) is the Sole Authorized Sales and Service Dealer for the State of California. The fire department has purchased Holmatro tools from FS3 since the original purchase in 1989. In addition, FS3 performs all repairs and annual service on the fire department's existing Holmatro equipment.

The Turlock Fire Department is seeking the City Council's approval to purchase two (2) new sets of rescue tools to replace the two (2) current sets of tools.

3. BASIS FOR RECOMMENDATION:

A. Staff recommends the authorization and sole source purchase of Holmatro tools and equipment from Fire Service Specifications & Supply (FS3) of Santa Ana, in the amount not to exceed $57,000, without compliance to the formal bid procedure.

Strategic Plan Initiative B. FISCAL RESPONSIBILITY

Goal(s): (c) Ensure the most efficient use of resources and maximize value within department budgets and develop value-added partnerships with public and private agencies, industry, and educational institutions, such as California State University Stanislaus

Strategic Plan Initiative C. PUBLIC SAFETY

Goal(s): 1(a)(ii) Provide station locations that enhance appropriate response times with appropriate equipment and staffing.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact: $6,300

Budget Amendment:
New appropriation of $6,300 to 240-00-000-306.44030_000 "Minor Equipment Maintenance" from Fund 240 "Small Equipment Replacement –Fire Equipment Replacement" reserve balance for the purchase of two rescue tool systems.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Council may deny the sole source purchase and direct the Fire Department to consider other vendors.

B. Deny the appropriation of additional funds.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AUTHORIZING THE SOLE SOURCE PROCUREMENT OF HOLMATRO TOOLS AND EQUIPMENT FROM FIRE SERVICE SPECIFICATIONS & SUPPLY (FS3) OF SANTA ANA, CALIFORNIA, IN AN AMOUNT NOT TO EXCEED $57,000, WITHOUT COMPLIANCE TO THE FORMAL BID PROCEDURE IN ACCORDANCE WITH SECTION 2-7-08(b)(2) OF THE TURLOCK MUNICIPAL CODE, AND APPROPRIATING $6,300 TO ACCOUNT NUMBER 240-00-000-306.44030_000 "MINOR EQUIPMENT MAINTENANCE" FROM FUND 240 "SMALL EQUIPMENT REPLACEMENT-FIRE EQUIPMENT REPLACEMENT" RESERVE BALANCE FOR THE PURCHASE OF TWO (2) RESCUE TOOL SYSTEMS	}	**RESOLUTION NO. 2014-**

WHEREAS, the fire department currently has two (2) sets of hydraulic rescue tools in operation, one (1) at Fire Station 2 and one (1) at Fire Station 4; and

WHEREAS, the two (2) sets of hydraulic rescue tools are at end of life status; and

WHEREAS, it is essential to the health, safety, and welfare of the people of Turlock that the fire department have hydraulic rescue tools and equipment; and

WHERAS, Holmatro rescue equipment was chosen by the fire department because of their excellent warranty, ease of use, cutting strengths, and economical pricing; and

WHEREAS, Fire Services Specifications & Supply (FS3) is the sole vendor in the State of California for Holmatro equipment and tools.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby authorize the sole source procurement of Holmatro tools and equipment from Fire Service Specifications & Supply (FS3) of Santa Ana, California, in an amount not to exceed $57,000, without compliance to the formal bid procedure in accordance with Section 2-7-08(b)(2) of the Turlock Municipal Code, and appropriate $6,300 to account number 240-00-000-306.44030_000 "Minor Equipment Maintenance" from Fund 240 "Small Equipment Replacement-Fire Equipment Replacement" reserve balance for the purchase of two (2) rescue tool systems

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF APPROVING THE SOLE SOURCE PROCUREMENT OF HOLMATRO RESCUE TOOLS AND EQUIPMENT FOR FUTURE PURCHASES FROM FIRE SERVICE SPECIFICATIONS & SUPPLY (FS3) OF SANTA ANA, CALIFORNIA, FOR THE TURLOCK FIRE DEPARTMENT, WITHOUT COMPLIANCE TO THE FORMAL BID PROCEDURE IN ACCORDANCE WITH SECTION 2-7-08(b) (2) OF THE TURLOCK MUNICIPAL CODE	}	**RESOLUTION NO. 2014-**

WHEREAS, the Holmatro rescue equipment was chosen by the fire department because of their excellent warranty, ease of use, cutting strengths and economical pricing; and

WHEREAS, the tools and equipment are used to extricate and disentangle trapped victims involved in traffic collisions; and

WHEREAS, these tools makes rescue operations faster, easier and safe; and

WHEREAS, it is essential to the health, safety, and welfare of the people of Turlock that the Fire Department have a hydraulic rescue tools and equipment; and

WHEREAS, Fire Services Specification & Supply (FS3) is the sole vendor in the State of California for Holmatro equipment and tools.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby approve the sole source purchase of Holmatro rescue tools and equipment for the Turlock Fire Department from Fire Service Specification & Supply (FS3) of Santa Ana, CA, without compliance to the formal bid procedure in accordance with Section 2-7-08(b) (2) of the Turlock Municipal Code

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____

Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

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Council Synopsis

December 9, 2014

From: Nadine Silva, Accountant II

Prepared by: Nadine Silva, Accountant II

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Authorizing the City Manager to enter into an agreement with US Bank and to sign State of California Participating Addendum No. 7-14-99-22 for continued use of the Cal Card program

2. DISCUSSION OF ISSUE:

U.S. Bank has been awarded the new Master Services Agreement (MSA) for Cal Card with a term starting on September 29, 2014 and ending on December 31, 2018. The MSA #5-06-99-01 for purchase card services expired on October 18, 2013 and agencies are required to complete a new contractual agreement with U.S. Bank, per the State of California, Department of General Services Procurement Division.

3. BASIS FOR RECOMMENDATION:

A) In an effort to improve the effectiveness of purchasing small dollar items, the City of Turlock entered into a contract with U.S. Bank as part of the State of California Procurement program (CAL Card). This program has proven to be successful and benefits include reduced number of demands, small dollar items are lumped into one demand, reduced petty cash transactions and need for manual checks, increased time to transact payment, ability for City staff to obtain smaller items locally in an expeditious manner, and prompt payment to the merchant.

B) The City of Turlock currently has 114 cardholders. By using the Cal Card program the City processes only 12 payments to U.S. Bank annually, thus significantly reducing payment processing time and costs. Also, the Cal Card program currently issues quarterly Payment Performance Rebates to the City of Turlock based on prompt payment in full.

C) U.S. Bank is the largest issuer of commercial bank cards. Due to the large volume of annual transactions and participating agencies, the new

contract offers volume sales rebates, average transaction rebates, prompt payment rebate, no annual or per card fees, and online access.

D) The Cal Card program carries the VISA logo which allows purchases at any vendor that accepts VISA. The State of California is entering into a new CAL-Card Master Service Agreement No. 7-14-99-22 to run through December 31, 2018.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact
None

Budget Amendment
None

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

Not required.

7. ALTERNATIVES:

A.. Reject the contract. Staff does not recommend this alternative due to the many benefits provided to the City of Turlock by being able to utilize purchase cards.

U.S. Bank Corporate Payment Systems
Contract Services
901 Marquette Ave. S, Ste. 1800
Minneapolis, MN 55402

Notice of New CAL-Card Agreement
State of California Participating Addendum NO. 7-14-99-22
Local Agency Subscription Letter

October 31 2014

City Of Turlock
CALCARD ADMIN: Nadine Silva
156 S Broadway Ste 110
Turlock, CA 95380

Dear Nadine:

On September 29, 2014, U.S. Bank entered into an agreement with the State of California to continue providing the purchase card services for the State's CAL-Card Program through the new State of California Participating Addendum No. 7-14-99-22. This agreement replaces the CAL-Card Master Service Agreement 5-06-99-01. Please view the new CAL-Card Agreement at the following website: http://www.dgs.ca.gov/pd/Programs/CALCard.aspx.

Your card program will be governed by this new CAL-Card Agreement as of October 1, 2014. Your current cards will continue to function and you can continue to rely on the U.S. Bank people and systems involved in servicing this card program.

If you plan to continue using your current CAL-Card program, no further action by you is needed. However, if for your own processes you wish to confirm in writing your decision to continue participating under the new CAL-Card Agreement, you can sign the first section on the back of this letter to indicate your continued participation and submit a copy of this document to U.S. Bank.

To terminate your participation in the CAL-Card program, you must sign the second section on the back of this letter and submit this document to U.S. Bank to provide notice of termination.

You may email the signed form to calcardprogram@usbank.com, or you may submit a copy of the completed form to U.S. Bank Corporate Payment Systems, Contract Services, 901 Marquette Ave. S., Ste. 1800, Minneapolis, MN 55402. Please retain the original for your own files.

Please note that there are new Late Payment Penalties contained in the Agreement. These Fees are outlined in the California Participating Addendum at Exhibit A Cal-Card Program Requirements, Section 1.L and in Exhibit E Incentives and Fees, Section 6 Card Fees. Late Payment Penalties will be applicable in accordance with the agreement terms and conditions, and U.S. Bank cannot waive any Late Payment Penalties unless the penalty is the result of U.S. Bank error.

We value your business and look forward to our continued partnership. If you have any questions, please email us at calcardprogram@usbank.com.

Thank you,

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U.S. Bank Corporate Payment Systems

usbank.

OPTIONAL Notice of Participation in the new CAL-Card Agreement

I, ROY WASDEN, on behalf of CITY OF TURLOCK (the "Customer"), for whom I am an authorized officer or employee, hereby notify U.S. Bank that the Customer accepts the assignment of its CAL-card program to the new CAL-Card Agreement (State of California Participating Addendum NO. 7-14-99-22).

Signature: _____ Date: DECEMBER 10, 2014

Title: CITY MANAGER

ALTERNATIVE:

TERMINATION Notice – For Use ONLY by Entities terminating Participation in the CAL-Card Program

I, _____, on behalf of _____ (the "Customer"), for whom I am an authorized officer or employee, hereby notify U.S. Bank that the Customer declines the assignment of its CAL-card program to the New CAL-Card Agreement and hereby terminates the CAL-Card Master Service Agreement 5-06-99-01 dated October 19, 2006 effective _____ ("Termination Effective Date"). Furthermore, Customer requests U.S. Bank cancel its cards and accounts related to its CAL-Card program on the Termination Effective Date. The Customer shall repay all outstanding obligations it owes to U.S. Bank pursuant to the terms of CAL-Card Master Service Agreement 5-06-99-01.

Signature: _____ Date: _____

Title: _____

You may email the signed form to calcardprogram@usbank.com, or you may submit a copy of the completed form to:

U.S. Bank Corporate Payment Systems
Contract Services
901 Marquette Ave. S, Ste. 1800
Minneapolis, MN 55402

MMWR 55631
R 10/2014

OK for Agenda

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-14-99-22

WASHINGTON WSCA-NASPO COMMERCIAL CARD SOLUTIONS
CONTRACT 00612-CATEGORY 1
U.S. Bank National Association (Contractor)

This Participating Addendum Number **7-14-99-22** is entered into between the State of California, Department of General Services (hereafter referred to as "State" or "DGS") and U.S. Bank National Association (hereafter referred to as "Contractor" or "U.S. Bank") under the State of Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 1.

1. SCOPE

A. This Participating Addendum includes the following commercial card products and associated services offered under the WSCA-NASPO Commercial Card Contract 00612-Category 1 to be provided by the Contractor to the State of California Purchase Card (CAL-Card) Program:

- Purchase Card (with Corporate Liability)
- Managed Spend Card (Purchase Card with declining balance feature)
- Emergency Response Card (Purchase Card with extended activation feature)

Note: All other commercial card products offered under the Washington WSCA-NASPO Commercial Card Solutions Contract 00612-Category 1, including Corporate/Travel Cards and One Cards, are excluded from this Participating Addendum.

B. This Participating Addendum is available for all State of California state agencies and local governmental agencies as defined in Exhibit A, Section 1.B (Eligible Participating Agencies).

C. Each local governmental agency shall make its own determination whether this Participating Addendum and the WSCA-NASPO Commercial Card Contract are consistent with its procurement policies and regulations.

2. TERM

The term of this Participating Addendum shall begin upon signature approval by the State and end December 31, 2018, or upon termination, whichever occurs first.

The State will have the option to extend the term of this Participating Addendum in the event the Washington WSCA-NASPO Commercial Card Contract term is extended. Lead State amendments to extend the Washington WSCA-NASPO Commercial Card Contract term date are not automatically incorporated into this Participating Addendum. Any extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.

3. INCORPORATION OF DOCUMENTS

A. Lead State Agreement

State of Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 1 is hereby incorporated by reference and made a part of this Participating Addendum.

B. Terms and Conditions

Terms and conditions of the following exhibits are hereby incorporated and made a part of this Participating Addendum:

Exhibit A – CAL-Card Program Requirements (7 pages)
Exhibit B – General Terms and Conditions (GTC 610 as modified) (3 pages)
Exhibit C – Contractor Certification Clauses (CCC 307) (4 pages)
Exhibit D – Agreement for Commercial Card Services (8 pages)
Exhibit E – Incentives and Fees (3 pages)
Exhibit F – Glossary of Terms (2 pages)

4. ORDER OF PRECEDENCE

In the event of any inconsistency between the articles, attachments, or provisions which constitute this agreement, the following descending order of precedence shall apply:

1) California Participating Addendum Number 7-14-99-22, including Exhibits A-F
2) Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 1
3) Washington WSCA-NASPO Commercial Card Solutions Request for Proposal (RFP) 00612
4) Approved portions of the Contractor's Response to Washington WSCA-NASPO Commercial Card Solutions RFP 00612

5. CONTRACT MANAGEMENT

A. **Contractor Primary Contact**

The Contract Manager and primary point of contact for the Contractor shall be as follows:

Contractor:	U.S. Bank National Association
Name:	Courtney Hoppe
Phone:	(310) 363-5850
E-Mail:	Courtney.hoppe@usbank.com
Address:	U.S. Bank National Association 901 Marquette Avenue Minneapolis, MN 55402

Should the Contract Manager information change, the Contractor will provide written notice with the updated information to the State Contract Administrator no later than 10 calendar days after the change.

B. **State Primary Contact**

The State Contract Administrator for this Participating Addendum and primary point of contact for the State's CAL-Card Program shall be as follows:

Name:	Julie Matthews
Phone:	(916) 375-4612
Fax:	(916) 375-4663
E-Mail:	Julie.Matthews@dgs.ca.gov
Address:	State of California Department of General Services, Procurement Division 707 Third Street, 2nd Floor, MS 2-202 West Sacramento, CA 95605

Should the State Contract Administrator information change, the State will provide written notice with the updated information to the Contractor Contract Manager no later than 10 calendar days after the change.

6. AGREEMENT

This Participating Addendum with its exhibits and/or amendments, sets forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.

7. AGREEMENT SIGNATURES

IN WITNESS WHEREOF, this Participating Addendum has been executed by the parties hereto.

STATE OF CALIFORNIA	CONTRACTOR
Department of General Services	U.S. Bank National Association
Agency Name	*Contractor Name*
Signature of Authorized Signer	*Signature of Authorized Signer*
Jim Butler, Deputy Director	Kelly M. Caspers, Vice President
Printed Name and Title of Authorized Signer	*Printed Name and Title of Authorized Signer*
9/29/14	9/26/14
Date Signed	*Date Signed*
707 Third Street West Sacramento, CA 95605	901 Marquette Avenue Minneapolis, MN 55402
Address	*Address*

APPROVED
SEP 29 2014
OFFICE OF LEGAL SERVICES
DEPT. OF GENERAL SERVICES

EXHIBIT A – CAL-Card Program Requirements

1. CAL-CARD PROGRAM REQUIREMENTS

A. CAL-Card Program Overview

"CAL-Card" is the official registered name of the State's Purchase Card Program administered by the State of California, Department of General Services. The purpose of the CAL-Card Program is to provide eligible participating agencies with purchase card services for the acquisition of goods and services.

B. Eligible Participating Agencies

1) State of California state agencies and local government agencies are allowed to participate in the State's CAL-Card Program under this Participating Addendum through a subscription agreement process.

   a. A "state agency" is any State of California government agency, department, bureau, board, or commission.

   b. Pursuant to Public Contract Code §10298 and for purposes of this Participating Addendum, a "local government agency" is any city, county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services. Further, for purposes of this Participating Addendum, reference to local government agencies will also include the California State Universities (CSU) and University of California (UC) systems.

2) State agencies may participate in the State's CAL-Card Program under this Participating Addendum upon the signing and submission of a properly completed Subscription Agreement, in the format specified by the State, incorporating all terms and conditions of the Participating Addendum.

3) Local governmental agencies may participate in the State's CAL-Card Program under this Participating Addendum upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Local Agency Subscription Agreement. Each local governmental agency will be subject to credit approval by the Contractor as described in Exhibit D, Section 2.A (Financial Information). Local governmental agencies shall assume responsibility and liability for local governmental agency's performance of the terms and conditions of the Participating Addendum. The State shall not bear liability or responsibility for local governmental agencies participating under this Participating Addendum.

4) Upon execution of a properly completed Subscription Agreement and/or Local Agency Subscription Agreement with credit approval from the Contractor, the state agency and/or local governmental agency will become a "Participating Agency" and the provision of services by the Contractor to such Participating Agency will be governed by the terms of this Participating Addendum.

C. Card Products and Liability

Contractor will provide the following card products to Participating Agencies under the State's CAL-Card Program:

- Purchase Card (with Corporate Liability)
- Managed Spend Card (Purchase Card with declining balance feature)
- Emergency Response Card (Purchase Card with extended activation feature)

Card products are further defined in Exhibit D, Section 3.A (Card Products). All card products offered under this Participating Addendum for the State's CAL-Card Program are corporate liability. Participating Agencies shall have no liability for lost or stolen cards or fraudulent use of any corporate liability cards.

D. Statewide Transition and Implementation

Upon Participating Addendum execution, the Contractor will work with the State to transition current CAL-Card Participating Agencies to the new Participating Addendum. Contractor and State Contract Administrator will develop a transition plan specific to the CAL-Card Program to ensure that an efficient and effective transition takes place. Contractor will work with the State Contract Administrator to meet all required elements of the agreed to plan.

E. Agency Enrollment

Contractor will provide an agency enrollment process for new CAL-Card Program participants. Within 15 calendar days of Participating Addendum execution, the Contractor shall provide the State Contract Administrator with detailed agency enrollment process, procedures, and applicable forms for review.

F. Card Design

1) Contractor will be responsible for the embossing and printing of cards. The State will use a basic design as the standard card stock to be used by all CAL-Card participants that will identify the card as a State of California CAL-Card purchasing card. The State will be responsible for furnishing any necessary artwork (digital file) to the Contractor for changes to the standard design during the term of the Participating Addendum.

2) Participating Agency will have the ability to customize standard card stock with verbiage and/or logo embossing as described below:

   a. State Agencies

   - Name – STATE OF CALIFORNIA, top, left side of card (required)
   - Program – CAL-Card, top, right side of card (required)
   - Phrase – FOR OFFICIAL USE ONLY, top, right side of card under CAL-Card (required)
   - Name – AGENCY/DEPARTMENT (required)
   - Name – CARDHOLDER NAME, (required)
   - Picture – LOGO/EMBLEM, (optional)

   b. Local Government Agencies

   - Name – LOCAL GOVERNMENTAL AGENCY NAME, top, left side of card (required)
   - Program – CAL-Card, top, right side of card (required)
   - Phrase – FOR OFFICIAL USE ONLY, top, right side of card under CAL-Card (required)
   - Name – CARDHOLDER NAME, (required)
   - Picture – LOGO/EMBLEM, (optional)

G. Card Issuance

Contractor will mail cards issued to Participating Agency within five business days or sooner after the Contractor receives cardholder account set-up information. Cards will be issued in accordance with Exhibit D, Section 3.B (Card and Account Issuance).

H. Customer Support

1) Contractor will provide a dedicated customer service team to support the State's CAL-Card Program throughout the term of the Participating Addendum. Contractor will:

   - Provide qualified, highly skilled personnel and ensure personnel are familiar with all aspects of the State's CAL-Card Program.
   - Provide at least one designated Relationship Manager, available to the State Contract Administrator and Participating Agency Program Administrators Monday through Friday during regular business hours, for CAL-Card Program contract support and escalation issues.
   - Provide at least one designated Account Coordinator, available to Participating Agency Program Administrators Monday through Friday during regular business hours, to assist with day-to-day Participating Agency account management support.

- Provide a designated customer service team for cardholder support.
- Provide a domestic and internationally toll-free phone number available to cardholders 24 hours a day, every day of the year for cardholder services.
- Have an established escalation process.

2) Within 15 calendar days of Participating Addendum execution, the Contractor shall provide the State Contract Administrator with customer service information including but not limited to:

   - Relationship Manager information
   - Account Coordinator information
   - Customer service unit information
   - Any additional Contractor support contacts (i.e. technical support, cardholder support, etc.) provided for the CAL-Card Program.

3) Should the customer service information or personnel change during the term of the Participating Addendum, Contractor will provide written notice to the State Contract Administrator 10 calendar days before changes or substitutions take place. Substitutions of personnel will include replacements with similar qualifications.

4) The State reserves the right to request additional personnel and/or replacement of current personnel at any time. Contractor will be notified in writing at least 10 calendar days before additional personnel and/or replacement personnel are needed.

I. **Training**

1) Contractor will provide ongoing training for all CAL-Card Program participants throughout the term of the Participating Addendum including, at a minimum:

   - Online Web-based training for Participating Agency Program Administrators and Cardholders
   - Onsite/Classroom training for Participating Agency Program Administrators
   - Onsite User Group Forums
   - Written User Reference Guides

2) Contractor will work with the State Contract Administrator on a training plan to be offered for the CAL-Card Program including training types, schedule, user reference guides and additional training materials.

J. **Purchase Card Data Management and Reporting System**

Contractor shall provide its online (web-based) system, U.S. Bank Access Online®, to the State's CAL-Card Program participants for:

- Transaction data collection and management
- Administration of system accounts
- Reporting output and data transfer

Designated authorized personnel from the State and Participating Agency will be provided permissions within Access Online®.

K. **Payment Terms**

1) Contractor will be responsible for sending an itemized official invoice (statement) to each Participating Agency after the end of each billing cycle as designed for each of the accounts established for the Participating Agency.

2) The full amount of each Participating Agency's monthly balance or billing cycle balance, except for disputed or reported fraud items, will be due within forty-five (45) calendar days from the billing cycle date of the Contractor invoice. If the Invoice is not postmarked within three business days after the billing cycle, the pay term can be extended the equal number of days between the third day after the billing cycle and the actual latest postmark date of the Statement. Billing statements and billing disputes are further outlined in Exhibit D, Section 3.C (Billing and Payment).

3) Payment may be made to the Contractor via check, cash warrant, bank wire, automated clearing house, or electronic funds transfer at the Participating Agency's option.

L. Late Payment Penalties

Late payment penalties for undisputed payments not received by the Contractor within the specified periods will be determined as follows:

1) State Agencies – State agencies will be required to pay late payment penalties based on the California Prompt Payment Act (Government Code Section 927 et seq.). The penalty on any undisputed late payment shall be calculated in accordance with the penalty interest rate factor per day formula provided in the State of California Budget Letter 14-14, Late Payment Penalty Interest Rates (or its successor letter).

2) Local Governmental Agencies – Local governmental agencies may be subject to late payment penalties as described in Exhibit E, Section 6 (Card Fees), unless local governmental agency provides Contractor with codes and/or legal authority which would prohibit local governmental agency's ability to pay penalty fees under this Participating Addendum.

M. CAL-Card Program Website and User Instructions

The State will administer a website dedicated to the State's CAL-Card Program for program information, participation forms and additional resources available to Participating Agencies. In addition, the State Contract Administrator will administer a User Instructions guide for Participating Agencies. Contractor may be required to provide information to the State Contract Administrator for public posting on the dedicated CAL-Card Program website and/or User Instructions guide.

N. Participating Agency Responsibilities

1) All Participating Agencies shall prepare the necessary forms to participate in the CAL-Card Program as described in the Participating Addendum and posted User Instructions guide.

2) All Participating Agencies shall designate an Agency Program Administrator who will serve as the primary point of contact between the Participating Agency and U.S. Bank.

3) State agencies participating in the CAL-Card Program shall comply with all applicable procurement laws, regulations, policies, procedures, and best practices, including those discussed in the State Contracting Manuals and User Instructions guide.

O. Program and Transaction Data Reporting (for Participating Agencies)

1) Custom Financial Extract Files

Contractor shall provide, at no cost to the Participating Agency, the ability to download data from Access Online® and the automatic creation of batch upload files containing accounting data to Participating Agency's internal accounting systems to include, at a minimum, a custom interface file to any internal system(s) designated by the Participating Agency. Contractor will be required to provide custom extract files at the request of the State and/or Participating Agency. The custom extract file shall be created in such a manner that it can be imported into the Participating Agency's internal accounting/financial system with no special programming or manual entry of transaction data.

2) Financial Information System for California ("FI$Cal")

Contractor will be required to provide custom interface files, at no cost to the State, for the State's financial management system ("FI$Cal system"). The Contractor will work with State of California, FI$Cal personnel to design, develop, test and implement the custom financial extract solution for the FI$Cal system. The custom interface file shall be created in such a manner that it can be imported into the FI$Cal system with no special programming or manual entry of transaction data. FI$Cal and Contractor will be responsible for providing necessary items to complete work as determined between the parties including but not limited to tasks, deliverables, schedule, system security and file requirements.

P. **CAL Card Program Reporting**

Contractor will be required to provide the following reports to the State. State may request additional reporting information for CAL-Card Program activity during the term of the Participating Addendum and Contractor will work with State Contract Administrator to provide requested reports.

1) Usage/Rebate Report

Contractor shall provide an electronic Usage/Rebate Report to the State on a quarterly (3 calendar months) basis. The report shall provide incentive share (rebates) for each Participating Agency for the calendar quarter.

Report must contain at a minimum, but not limited to, the data elements identified below:

- Participating Agency Name
- Quarterly Volume Sales
- Quarterly Qualifying Large Ticket Volume
- Total number of Transactions
- Total number of Qualifying Large Ticket Transactions
- Calculated incentive share (rebates) for each Participating Agency
- Total actual incentive share (rebates) paid to Participating Agency

Report shall be provided to the State Contract Administrator, in Excel format via email, within 60 days following the last day of the quarter. Within 30 calendar days from Participating Addendum execution, the Contractor must submit a preliminary report to the State Contract Administrator for review.

2) Delinquency Report

Contract shall provide an electronic Delinquency Report to the State on a monthly basis. The report shall list Participating Agencies with balances past due greater than 45 calendar days, with subsequent suspension at 90 calendar days after the cycle close. Report shall be provided to the State Contract Administrator, in Excel format via email, within 15 calendar days following the last day of the calendar month.

3) Agency Program Administrator Contact Report

Contractor shall provide an electronic Program Administrator Contact Report to the State Contract Administrator on a quarterly (3 calendar months) basis and/or upon written request. The report shall provide Agency Program Administrator information (including agency name, contact name, email, and phone number) for each Participating Agency. Report shall be provided to the State Contract Administrator, in Excel format via email, within 60 calendar days following the last day of the quarter or within 10 calendar days of the State's written request.

Q. **End-of-Life Transition**

Contractor agrees that at the end of the Participating Addendum, should the State conduct another procurement and award a new contract, the Contractor will work with the State Contract Administrator to ensure that an efficient and effective transition takes place within nine months.

2. ADDITIONAL REQUIREMENTS

A. **Insurance Certificates**

Contractor shall furnish copies of certificates for all required insurance, as specified in the WSCA-NASPO Contract Number 00612-Category 1, to the State Contract Administrator within 30 calendar days of the Participating Addendum execution. Copies of renewal certificates for all required insurance shall be furnished within 30 calendar days after renewal date.

B. Darfur Certification

Pursuant to Public Contract Code §10475 et seq., if the Contractor has or within the previous three years has had business activities or other operations outside the United States, the Contractor must complete a Darfur Contract Act Certification stating they are not a scrutinized company as defined, or demonstrate Contractor has obtained permission under the statute. Contractor must provide required documentation to the State Contract Administrator within 15 calendar days of the State's written request.

C. Termination by Mutual Agreement

1) The State and Contractor may mutually agree to terminate this Participating Addendum at any time during the term of the Participating Addendum. Requests for mutual termination may be initiated by either party with written notice. The State and Contractor will mutually agree on the effective date of termination.

2) Upon termination of the Participating Addendum, each party will assist the other party in orderly termination of the agreement and transfer of all assets, tangible and intangible, as may facilitation the orderly, undisrupted business continuation of each party. Participating Agencies shall be responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

D. Termination (By State or Participating Agency)

1) The State may terminate the Participating Addendum and any Participating Agency may terminate its respective Subscription Agreement for cause upon a reasonable and good faith determination that the Contractor failed to perform the material requirements of the agreement at the time and in the manner herein provided. In the event of a breach, the State or Participating Agency will send the Contractor a notice specifying the breach and providing the Contractor an opportunity to cure the breach within a period of time no less than 30 calendar days ("Cure Period"). If the breach is not cured within the Cure Period, the State will have the right to terminate the Participating Addendum and the Participating Agency will have the right to terminate its respective Subscription Agreement by notice to the Contractor.

2) The State may terminate the Participating Addendum without cause upon 60 calendar days advance written notice to the Contractor. Participating Agencies may terminate their respective Subscription Agreements without cause upon 30 calendar days advance written notice to the Contractor.

3) Upon termination of the Participating Addendum and/or Participating Agency's Subscription Agreement, each party will assist the other party in orderly termination of the agreement and transfer of all assets, tangible and intangible, as may facilitation the orderly, undisrupted business continuation of each party. Participating Agencies shall be responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

E. Availability of Funds

This Agreement is valid and enforceable only if sufficient funds are made available by the Budget Act of the appropriate fiscal year for the purposes of this program. In addition, this Agreement is subject to any additional restriction, limitations or conditions enacted by the Legislature, which may affect the provisions, terms, or funding of this Agreement in any manner. In the event sufficient funds are not made available to the State, the State has the option to terminate the Agreement and Participating Agencies shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

F. Contracts Funded by the Federal Government

It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the current and/or subsequent years covered by this Agreement for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.

The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds. The State has the option to terminate the Agreement or to amend the Agreement to reflect any reduction in funds. In the event of termination, Participating Agencies shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

G. **Federal Debarment**

The Federal Department of Labor requires that State agencies, which are expending Federal funds of $25,000 or more, have in the contract file a certification by the supplier that they have not been debarred or suspended from doing business with the Federal Government. Contractor must provide this documentation upon request.

H. **News Releases**

Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Participating Addendum or the State's CAL-Card Program shall not be made without prior written approval of the DGS.

EXHIBIT B – General Terms and Conditions (GTC 610 as modified)

1. APPROVAL

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES

Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE (Stricken in its entirety—See Exhibit A, Section 2.D)

8. INDEPENDENT CONTRACTOR

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS

Time is of the essence in this Agreement.

13. COMPENSATION

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

   1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

   2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT

For any Agreement in excess of $100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS

If this Contract includes services in excess of $200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT C – Contractor Certification Clauses (CCC 307)

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)	*Federal ID Number*
U.S. Bank National Association	31-0841368
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Kelly M. Caspers Vice President	
Date Executed	*Executed in the County of*
9/26/14	Hennepin County

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

1) the dangers of drug abuse in the workplace;
2) the person's or organization's policy of maintaining a drug-free workplace;
3) any available counseling, rehabilitation and employee assistance programs; and,
4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

1) receive a copy of the company's drug-free workplace policy statement; and,
2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES $50,000 OR MORE- PRO BONO REQUIREMENT

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS

For contracts over $100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST

Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT

Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204

This form must be completed by all contractors that are not another state agency or other governmental entity.

EXHIBIT D – Agreement for Commercial Card Services

This exhibit identifies additional terms governing the U.S. Bank Commercial Card Program (the **"Commercial Card Program"**) provided by U.S. Bank National Association (**"U.S. Bank"**) to Participating Agencies for the State of California, Department of General Services ("DGS") CAL-Card Program and is an attachment to the Participating Addendum.

Participation in Commercial Card Program:
Certain entities may participate in the Commercial Card Program as defined in Exhibit A, Section 1.B (Eligible Participating Agencies).

1. DEFINITIONS

A. **Definitions.** All capitalized terms used in this exhibit are defined herein and shall have the following meaning:

1) **"Account"** means any account established by U.S. Bank pursuant to this Agreement in the name of Participating Agency and/or Cardholders, to which Debt is charged, regardless of whether or not a Card is issued in conjunction with such account.
2) **"Affiliate"** means a Person that directly or indirectly controls, is controlled by, or is under common control with, the Person specified.
3) **"Ancillary Services"** means any additional services offered in conjunction with an Account.
4) **"Association"** means, collectively, the Persons who govern commercial card issuance, including, without limitation, Visa USA, Inc., Visa International Service Association, Inc., MasterCard USA, and MasterCard International.
5) **"Billing Cycle"** means the period of time from which a Statement is generated until the next Statement is generated.
6) **"Card"** means, in connection with an Account, any commercial charge card issued by U.S. Bank pursuant to this Agreement in the name of Participating Agency and/or Cardholders.
7) **"Cardholder"** means an individual employee of Participating Agency, named as the holder of the Account or using the Account in the name of Participating Agency, regardless of whether a physical card is issued in conjunction with the Account.
8) **"Cardholder Account"** means an account number assigned to a Cardholder.
9) **"Cardholder Agreement"** means the U.S. Bank Cardholder agreement between U.S. Bank and the Cardholder.
10) **"Card Products"** means the standard U.S. Bank commercial card product offerings. For the purposes of the Participating Addendum, Card Products include the Purchase Card, Managed Spend Card, and Emergency Response Card.
11) **"Central Billing Account"** means any Account used for consolidating Transactions from one or more other Accounts for centralized corporate billing purposes. For the purposes of the Participating Addendum, Central Billing Accounts include Managed Spend Central Billing Account and Central Purchase Accounts.
12) **"Charge"** means any transaction posted to an Account that has a debit value, including without limitation, Purchases and Fees.
13) **"Charge-off"** means the entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred eighty (180) days after the Billing Cycle close date.
14) **"Commercial Card Program"** means the Card Products and Ancillary Services offered by U.S. Bank.
15) **"Control" or "Controlled"** means, with respect to a Person, the possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership, membership or other ownership interests, by contract or otherwise) of such Person.
16) **"Data"** means the information regarding or in connection with Accounts and/or Transactions associated with the Commercial Card Program.

17) **"Debt"** means all amounts charged to an Account including without limitation all amounts related to Charges that are owed to U.S. Bank by Participating Agency and/or Cardholders.
18) **"Due Date"** means, with respect to a Statement, the date, as measured by the number of days after the Statement Date, for which the payment of Debt that is listed on the Statement is due.
19) **"Fees"** means all fees that are posted to an Account and due and payable to U.S. Bank by Participating Agency and/or its Cardholders that are associated with any Commercial Card Program. Fees include Foreign Transaction Fee and Late Fee.
20) **"Foreign Transaction Fee"** means the fee U.S. Bank charges on the amount of any Debt or other Transaction posted to an Account that is not in the same currency in which the Account is billed and which must be converted to the currency used for billing purposes.
21) **"Fraudulent Charges"** mean those Charges which are not initiated, authorized or otherwise requested by Participating Agency and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Participating Agency and/or a Cardholder.
22) **"Intellectual Property"** or **"Intellectual Property Rights"** means any patent rights, copyrights, trade secrets, trade names, service marks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force.
23) **"Late Fee"** means the fees associated with any Debt that remains unpaid to U.S. Bank by Participating Agency and/or Cardholders after the Due Date on the Statement.
24) **"MasterCard"** means MasterCard® USA, Inc., MasterCard International, and any other MasterCard entity identified in the Participating Addendum.
25) **"Merchant"** means any entity that has entered into an agreement that governs the acceptance of Cards.
26) **"Merchant Category Code"** means the code established by the Associations that identifies and classifies goods or services offered by a Merchant. Each Merchant designates its Merchant Category Code to the applicable Association.
27) **"Parent"** means any Person that Controls a Party.
28) **"Party"** means any one of U.S. Bank or Participating Agency, and **"Parties"** means U.S. Bank and Participating Agency.
29) **"Past Due Balance"** means, with respect to a Statement, the total amount of any Debt which remains unpaid to U.S. Bank by Participating Agency and/or Cardholder after the Due Date specified on such Statement.
30) **"Person"** means any corporation, company, limited liability company, general partnership, limited partnership, limited liability partnership, unincorporated association, trust, joint venture, estate or other judicial entity or any governmental body.
31) **"Local Agency Subscription Agreement"** means the Commercial Card Program Local Agency Subscription Agreement used by local governmental agencies to join the Commercial Card Program.
32) **"Purchase"** means a purchase of goods and/or services that is charged to an Account.
33) **"Statement"** means, with respect to one or more accounts, a periodic billing Statement from U.S. Bank listing all Transactions posted to such Accounts.
34) **"Summary Statement"** means, with respect to one or more accounts, a billing Statement that provides only an aggregate amount of all Transactions posted to such Accounts.
35) **"Transaction"** means any activity posted to an Account, both debit and credits, including but not limited to Purchases, Fees and payments.
36) **"Visa"** means Visa® USA, Inc., Visa International Service Association, Inc. and any other Visa entity identified in the Participating Addendum.

2. CREDIT PROVISIONS

A. **Financial Information.** The establishment of a Commercial Card Program provides an extension of credit, and the State and each participating local governmental agency shall provide sufficient information to enable U.S. Bank to perform periodic credit reviews.

1) **State Agencies.** The State of California will be credit qualified as a single entity upon execution of the Participating Addendum. Individual state agencies will not be required to credit qualify on their own.

2) **Local Governmental Agencies.** Each local governmental agency must individually credit qualify and submit a signed, properly completed Local Agency Subscription Agreement to U.S. Bank.

3) **Financial Information for State and Local Governmental Agencies.** To become credit qualified, the State and each local governmental agency will provide the last three (3) years of audited financial statements to U.S. Bank prior to the issuance of any cards. U.S. Bank shall have the right to require the State or any local governmental agency to provide annual financial statements on or before one hundred eighty (180) days after the end of the fiscal year. The local governmental agency should provide this first set of financial statements with their signed, completed Local Agency Subscription Agreement. U.S. Bank will review the financial statements and provide notice to each local governmental agency of the approval or decline of their credit qualification. If satisfactory financial information can be found on a website, U.S. Bank will not require the State or local governmental agency to provide financial information that U.S. Bank can obtain on its own.

B. **Aggregate Product Credit Limit and Account Credit Limits.** Subject to credit approval by U.S. Bank, an Account Credit Limit (an "ACL") for each Account and an Aggregate Product Credit Limit (the "PCL") for all Accounts shall be established by U.S. Bank pursuant to this Agreement.

1) **Revising the PCL.** U.S. Bank, at its sole discretion, shall have the right to revise the PCL. U.S. Bank shall provide notice to the Participating Agency of any decrease in the PCL. In the event a decrease in a PCL results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts, Participating Agency shall have 30 days to make a payment to U.S. Bank that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL.

2) **Revising ACLs.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL.

a. **Participating Agency Accounts.** U.S. Bank shall provide notice to the Participating Agency of any decrease in an ACL. In the event a decrease in an ACL results in a revised ACL that is lower than the aggregate current amount outstanding on the Account, Participating Agency shall have 30 days to make a payment to U.S. Bank on the Account that is sufficient to reduce the aggregate current amount outstanding for such Account to an amount that is equal to or less than the revised ACL.

b. **Cardholder Accounts.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL and/or limit spending activity on any Cardholder Account. Based on the credit worthiness of Participating Agency and/or its Cardholder, U.S. Bank, at its sole discretion, shall establish an ACL of no less than five hundred U.S. Dollars ($500.00).

c. **Fraudulent Activity.** U.S. Bank may temporarily revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected.

3. U.S. COMMERCIAL CARD PROGRAMS

A. **Card Products.** U.S. Bank may provide the following Card Products to Participating Agency and its Cardholders.

1) **U.S. Bank Purchase Card.** The U.S. Bank Purchase Card is a charge card designed for use by Cardholders to charge goods and services related to the business activities of Participating Agency. U.S. Bank also provides Central Purchase Accounts, which can be used for the same purpose, but without the issuance of a physical card.

2) **U.S. Bank Managed Spend Card.** The U.S. Managed Spend Card is a specialized corporate liability purchase card designed for use by Participating Agency or Cardholders to charge business related goods and services. Unless requested for a different duration, the Managed Spend Card has a term of twelve (12) to thirty-six (36) months. U.S. Bank also provides Managed Spend Central Billing Accounts, which can also be used for the same purpose, but without the issuance of a physical card.

Based on the credit worthiness of the Participating Agency, U.S. Bank, at its sole discretion, shall establish a credit limit of no less than five hundred U.S. Dollars ($500.00).

3) **U.S. Bank Emergency Response Card.** The U.S. Bank Emergency Response Card is a corporate liability purchase card designed for use by Cardholders under unusual or special circumstances such as disaster relief/recovery efforts. Participating Agency provides the Emergency Response Card to Cardholders to charge goods and services against a Corporate billed account. Emergency Response Cards do not automatically deactivate. Cards are only cancelled with direction from a Participating Agency or upon termination of the Participating Agency's participation in the Commercial Card Program.

B. **Card and Account Issuance.** Participating Agency shall designate to U.S. Bank Cardholders that are authorized to incur expenses on behalf of Participating Agency during the term of this Agreement and who are to receive Cards and/or be issued Account numbers by submitting to U.S. Bank completed, duly authorized applications, in a format specified by U.S. Bank, such as through Access Online, including any applicable consents and/or authorizations from such Cardholders as may be required by the applicable local law, rule or regulation.

1) **Card Delivery.** U.S. Bank shall issue Cards and/or Accounts directly to Participating Agency's designated point of contact.

2) **Creation of Cards by Participating Agency.** Participating Agency has the ability to create Cards on its own through the use of Access Online. Such Cards can be created with or without an individual's name embossed on the face of the Cards. Acceptance of Cards without a name embossed on the face of the Cards is at the discretion of Merchants.

C. **Billing and Payment.** Participating Agency or Cardholder shall pay the amount due on the Statement by the Due Date in accordance with Exhibit A, Section 1.K (Payment Terms).

1) **Central Bill.** Each Transaction is either posted to a Cardholder Account and rolled up to a Central Account for billing or billed directly to a Central Account. Participating Agency will receive one or more central account Statements at the conclusion of each Billing Cycle for all Cardholder and/or Central Account Transactions. With respect to Transactions posted to a Cardholder Account and rolled up to a Central Account, the Cardholder receives a memo Statement showing his/her respective Transactions but with no amount due. Participating Agency receives a consolidated Statement, which includes the total amount due for all Cardholder Accounts and Central Accounts and is responsible for ensuring the balance due on the Statement is paid by the Due Date.

2) **Billing Disputes.** U.S. Bank must receive written communication of a dispute within 60 days of the date on the Statement on which the disputed or allegedly incorrect Transaction first appeared. Association regulations govern the resolution of all billing disputes. Billing disputes must be communicated in writing to U.S. Bank through Access Online, at the address provided on the Statement, or in another format as specified by U.S. Bank.

3) **Merchant Category Disclaimer.** Upon request by DGS and/or Participating Agency, U.S. Bank may either prevent or restrict usage of its Card Products to selected Merchants based on Merchant Category Code. To the extent this is requested, the following disclaimers apply:

a. **Limitation of Liability.** U.S. Bank can only enforce Merchant Category Code restrictions to the extent it receives accurate Merchant Category Code data with the Transaction authorization request. U.S. Bank has no liability for Transactions declined or approved contrary to the intent of DGS and/or Participating Agency.

b. **Incorrect Merchant Category Codes.** To the extent DGS and/or Participating Agency believes a Merchant has not been assigned an accurate Merchant Category Code, U.S. Bank will advise the Association of the inaccuracy. Whether or not the Merchant Category Code is changed is dependent upon applicable Association regulations.

4) **Trailing Transactions.** Upon cancellation of an Account, the Participating Agency and/or Cardholder must cancel the billing of all reoccurring Transactions to the Account.

D. **Liability.** Liability option for which Participating Agency has been approved is specified in Exhibit A, Section 1.C (Card Products and Liability).

1) **Corporate Liability.** Participating Agency is solely liable to U.S. Bank for all billed Transactions.

2) **Liability Exceptions.** Participating Agency may be liable for all billed Transactions, regardless of liability option specified in the Participating Addendum, in the following circumstances:

a. **Failure to Notify; Liability Exceptions.** Participating Agency shall immediately notify U.S. Bank of any of the following:

(i) Termination of employment of any Cardholder;
(ii) Any lost or stolen Card for which the Participating Agency has liability;
(iii) Any compromised Account for which the Participating Agency has liability; or
(iv) Any compromised information regarding Cards, Accounts or other sensitive data including, but not limited to, Account numbers, personal identification numbers, passwords, or Cardholder information.

Participating Agency shall provide sufficient information as may be requested by U.S. Bank for U.S. Bank to act on such notifications. Failure of Participating Agency to provide notification may result in Participating Agency's liability to pay for all Transactions on such Cards and/or Accounts notwithstanding any liability option specified in the Participating Addendum. Liability is limited to period of time from when notification should have been received to when notification is actually received and only for those Transactions that U.S. Bank cannot charge back to the Merchant. In any event, regardless of the liability option chosen, Cardholder's liability will not exceed fifty U.S. Dollars ($50.00).

E. **Delinquency.** If the amount shown on the Statement as the current amount due has not been paid to U.S. Bank by Participating Agency and/or Cardholder by the Due Date, U.S. Bank shall have the following rights:

1) **Suspension.** U.S. Bank shall have the right to suspend any Account that is delinquent for a period exceeding ninety (90) days from the Billing Cycle close date. The 90 day period is made up of forty five (45) day payment terms on the contract, and another forty five (45) day grace period.

2) **Cancellation.** U.S. Bank shall have the right to cancel any Account that is delinquent for a period exceeding one hundred eighty (180) days from the Billing Cycle close date, which is made up of the 45 day payment terms on the contract, and another 135 day grace period for collection efforts. If an Account remains unpaid for more than one hundred eighty (180) days after the Billing Cycle close date, U.S. Bank will also "charge off" the entire outstanding balance and deduct it from the Participating Agency's next quarterly rebate.

3) **Late Fees.** U.S. Bank shall have the right to bill Late Fees on all delinquent Accounts, as specified in Exhibit A, Section 1.L (Late Payment Penalties).

4. SECURITY AND CONFIDENTIALITY

A. **Security.** U.S. Bank and the Participating Agency shall safeguard information regarding Cards, Account numbers, passwords, personal identification numbers, and other sensitive information provided by U.S. Bank in a manner that is no less stringent than those applicable to each Party's own proprietary information. Each Party will utilize each Party's respective industry standards to maintain an appropriate information security program to prevent the unauthorized disclosure, misuse, alteration, or destruction of Confidential Information.

B. **Confidentiality.** The U.S. Bank and the Participating Agency agree to the following provisions regarding the use and disclosure of Confidential Information:

1) **Confidential Information.** For purposes of this Agreement, "**Confidential Information**" means information supplied by one Party ("**Disclosing Party**") to the other Party ("**Recipient**") that is expressly protected from unrestricted use by persons not associated with Disclosing Party.

a. **U.S. Bank Confidential Information.** U.S. Bank and Participating Agency agree that the Commercial Card Program is a unique service involving the exchange of proprietary and/or Confidential Information between the Parties. Participating Agency agrees that Commercial Card Program reports, manuals, documentation, and related materials shall be circulated by it only to the extent necessary for Participating Agency to manage the Commercial Card Program and/or use such information in connection with Participating Agency's business. Notwithstanding the foregoing, such records may be subject to disclosure in accordance with the State of California or Participating Agency public records laws. Additionally, DGS may post certain materials on the DGS CAL-Card public website to the extent necessary to manage the Commercial Card program.

b. **Participating Agency Confidential Information.** U.S. Bank and Participating Agency agree that any non-public financial information of Participating Agency and any non-public data regarding Participating Agency Accounts, Transactions, charges, spending volume or repayment terms is Confidential Information of Participating Agency and such information shall be circulated by U.S. Bank only to the extent necessary for U.S. Bank to offer the Commercial Card Program.

2) **Restriction.** Participating Agency and U.S. Bank agree to take all reasonable steps to safeguard the other Party's proprietary and Confidential Information and not to release such information to any person or Party not essential to participation in the Commercial Card Program.

3) **Care.** The Recipient shall provide the same care to avoid an unauthorized disclosure, misuse, alteration or destruction of Confidential Information of the Disclosing Party as it provides to protect its own similar proprietary information, but in no event, less than a reasonable standard of care.

4) **Relief.** Because damages may be difficult to ascertain, the Parties agree that in the event of any violation of Exhibit D, Section 4.B., without limiting any other rights and remedies of each other, an injunction may be sought against the Party who has breached or threatened to breach the aforementioned Section.

5) **Exceptions.** With respect to Confidential Information, U.S. Bank and Participating Agency agree that the other may use and disclose such information for the following purposes:

a. **Normal Business Operations.** U.S. Bank and Participating Agency may use and disclose such Confidential Information of the other as is required by normal business operations in connection with the Commercial Card Programs and as may be required by Association Operating Regulations.

b. **Legal and Regulatory Requirements.** U.S. Bank and Participating Agency may use and disclose Confidential Information of the other to legal authorities, agents, auditors or regulators of U.S. Bank and Participating Agency, respectively, or as otherwise may be required by law, rule or regulation.

c. **Summarized Data.** U.S. Bank and Participating Agency may use and disclose Data to any third party to the extent that such Data is aggregated, summarized, or otherwise presented in a manner that does not directly or indirectly identify such Data as attributable to U.S. Bank, Participating Agency, and/or Cardholders.

d. **Archived Data.** U.S. Bank and Participating Agency are entitled to retain Confidential Information of the other for archival purposes as required in accordance with applicable law, rule or regulations.

e. **Third Parties.** Participating Agency acknowledges that portions of its Account and Transaction data are captured by third parties, including, but not limited to the Associations, third-party service providers, Merchants, and Merchant processors, during the course of normal business operations and that the confidentiality provisions of this Agreement do not extend to such third parties.

5. TERMINATION (By Contractor)

A. **Termination for Cause by U.S. Bank.** U.S. Bank has the right to send the Participating Agency a written notice specifying a default in the following sections (1)–(3) and providing the Participating Agency an opportunity to cure the breach within a period of time no less than 30 days ("Cure Period"). If the breach

is not cured within the Cure Period, then U.S. Bank has the right to terminate any Card Product and/or Ancillary Service provided to a Participating Agency, or terminate the Participating Agency's Subscription Agreement in its entirety, by written notice to the Participating Agency.

1) Dissolution or liquidation of the Participating Agency;

2) Insolvency of, the filing of a bankruptcy or insolvency proceeding with respect to, or the appointment of a receiver or trustee for the benefit of creditors of the Participating Agency, or the Participating Agency enters into any other similar proceeding or arrangement for the general benefit of its creditors;

3) Material breach of any term or condition by Participating Agency.

B. **Effect of Termination.** Upon termination, all applicable Cards, Accounts, and/or related services shall be deemed canceled upon a stated termination date as referenced in the termination notification. Upon termination, Participating Agency shall instruct all Cardholders to destroy their Cards and/or any records of Account numbers and U.S. Bank shall terminate all applicable services thereunder upon a stated termination date. Participating Agency shall remain liable for all Debts arising from the use of a Card and/or Account prior to the termination date.

C. **Surviving Rights.** Rights, obligations and/or liabilities that arise prior to the termination of this Agreement or the Participating Agency's Subscription Agreement shall survive any such termination.

6. OTHER TERMS AND CONDITIONS

A. **Intellectual Property.** DGS, Participating Agency and U.S. Bank each recognizes that it has no right, title or interest, proprietary or otherwise, in or to the name or any logo, or Intellectual Property owned or licensed by the other. DGS, Participating Agency and U.S. Bank each agree that, without prior written consent of the other, it shall not use the name, any logo, or Intellectual Property owned or licensed by the other.

B. **No Third Party Beneficiaries or Claims.** Any Commercial Card Program provided to Participating Agency by U.S. Bank is for the sole and exclusive benefit of Participating Agency and no other persons or organizations shall have any rights and/or remedies arising under or in connection with this Agreement.

C. **Limitation of Liability.** NEITHER PARTICIPATING AGENCY, U.S. BANK, NOR ANY PARTY'S AFFILIATES, REPRESENTATIVES AND ASSIGNS SHALL IN ANY EVENT BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING LOST PROFITS) EVEN IF SUCH PARTY HAD BEEN NOTIFIED OF THEIR POSSIBLE EXISTENCE.

D. **Representations and Warranties.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, U.S. BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO PARTICIPATING AGENCY OR TO ANY OTHER PERSON OR THIRD PARTY, WITH RESPECT TO THE COMMERCIAL CARD PROGRAM PROVIDED BY U.S. BANK OR ITS REPRESENTATIVES OR WITH RESPECT TO SOFTWARE SERVICES PROVIDED OR MADE AVAILABLE TO PARTICIPATING AGENCY OR ANY OTHER PERSON FOR ITS USE BY U.S. BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE THEREUNDER.

E. **Severability.** Should any provision of this Agreement be declared invalid for any reason, such declaration shall not affect the validity of any other provision of this Agreement, which shall remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated.

F. **Non-Waiver.** The failure of U.S. Bank or Participating Agency to exercise any right, power or option arising under this Agreement, or to insist upon strict compliance with the terms of this Agreement shall not constitute a waiver of this Agreement with respect to any other or subsequent breach hereof, nor a waiver by either of U.S. Bank or Participating Agency of its rights at any time thereafter to require exact and strict compliance with all the terms hereof.

G. **Interpretation of this Agreement.** The Parties expressly agree that this Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation. Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, words importing any gender include all genders and references to agreements and other contractual instruments shall be deemed to include all present or future amendments, supplements, restatements or replacements thereof or thereto. Headings are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

H. **Foreign Transactions.** If an Account is used for Purchases or to obtain cash in a country other than the United States, the Statement shall reflect the conversion into U.S. Dollars of Transactions that occurred in a different currency and an applicable exchange rate for any such conversion. Due to fluctuations in foreign exchange rates, a credit transaction may not be in the same amount as the original debit transaction.

I. **USA PATRIOT Act.** In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank may require Participating Agency and Cardholders to provide their legal entity name, street address, taxpayer identification number and other information that will allow U.S. Bank to identify each Participating Agency and Cardholders prior to establishing an Account under or in connection with the Agreement. U.S. Bank reserves the right to require that Participating Agency and Cardholders promptly provide to U.S. Bank sufficient identification documents upon request and in connection with USA PATRIOT Act compliance.

J. **Other Agreements and Regulations.** In addition to this Agreement, the products and services provided to Participating Agency are subject to the following additional agreements and/or regulations:

1) **Clearing House Operating Regulations.** Any applicable automated clearinghouse operating rules, including, without limitation, the National Automated Clearing House Association Operating Rules and Guidelines (collectively referred to as the **"NACHA Rules"**);

2) **Association Operating Regulations.** Visa Association operating rules and regulations, including Visa USA and Visa International; and

3) **Cardholder Agreement.** Each Cardholder may receive a Cardholder Agreement that governs the use of the Account. Activation of the Card or Account by the Cardholder and/or use of the Card or Account by the Cardholder constitutes concurrence with the terms and conditions of the Cardholder Agreement. The Participating Addendum terms and conditions shall prevail and govern in the case of a conflict between the Cardholder Agreement and the Participating Addendum.

EXHIBIT E – Incentives and Fees

1. INTRODUCTION

This exhibit identifies the incentive share (rebates) and fees applicable under this Participating Addendum.

2. COMMENCEMENT OF THE NEW REVENUE SHARE OPPORTUNITY

The first revenue share payment pursuant to this Participating Addendum, if any is earned, shall be made within 60 days after the end of the first Agreement Quarter. The first Agreement Quarter is defined as the first full Calendar Quarter which consists of the three month calendar period beginning in January, April, July or October following the Effective Date of the Participating Addendum.

3. INCENTIVE SHARE (REBATES)

The Contractor will provide a Volume Sales Incentive, Prompt Payment Incentive, and Large Ticket Volume Incentive (Incentive Share Components #1-3) to Participating Agencies on a quarterly (3 calendar months) basis. The Contractor will provide an Annual Volume Sales Incentive (Incentive Component #4) to the State on an annual (calendar year) basis.

A. Incentive Share Component #1 – Volume Sales Incentive

A Volume Sales Incentive will be given to each Participating Agency. The Volume Sales Incentive is based on the total volume sales less qualifying large ticket volume sales for the individual Participating Agency for each quarter (3 calendar months).

The following formula will be used to determine the Volume Sales Incentive for each Participating Agency:

Volume Sales Incentive Calculation				
Quarterly Volume Sales – Quarterly Large Ticket Volume *(for individual participating agency)*	x	.0130 (130 bps)	=	Participating Agency Quarterly Volume Sales Incentive

B. Incentive Share Component #2 – Prompt Payment Incentive

A Prompt Payment Incentive will be given to each Participating Agency. The Prompt Payment Incentive calculation is designed to provide an incentive to each Entity, when Client Held Days is less than forty-five (45) days. Client Held Days cannot be less than zero (0). Client Held Days means the sum of the daily balances for the quarter divided by the total Net Charge Volume for the quarter less 15 days. The Prompt Payment Incentive is based solely on the Client Held Days Payment Performance for each Participating Agency for each quarter (3 calendar months).

The following formula will be used to determine the Prompt Payment Incentive for each Participating Agency:

Prompt Payment Incentive Calculation						
$\frac{(45 - \text{Client Held Days})}{45}$	x	.0045 (45 bps)	x	Quarterly Volume Sales *(for individual participating agency)*	=	Participating Agency Quarterly Prompt Payment Incentive

C. Incentive Share Component #3 – Large Ticket Volume Incentive

A Large Ticket Volume Incentive will be given to each Participating Agency. The Large Ticket Volume Incentive is based on the qualifying large ticket volume sales for the individual Participating Agency for each quarter (3 calendar months). Qualifying large ticket transactions will be subject to the Prompt Payment Incentive.

The following formula will be used to determine the Large Ticket Volume Incentive for each Participating Agency:

Large Ticket Volume Incentive Calculation				
Quarterly Large Ticket Volume *(for individual participating agency)*	x	.0075 (75 bps)	=	Quarterly Large Ticket Volume Incentive

D. **Incentive Share Component #4 – Annual Volume Sales Incentive**

An Annual Volume Sales Incentive will be given to the State. The Annual Volume Sales Incentive is based on a tier rate (determined from the combined annual sales volume for all WSCA-NASPO Participating States) applied to the State's annual sales volume.

The following formula will be used to determine the Annual Volume Sales Incentive for the State:

Annual Volume Sales Incentive Calculation

State Annual Sales Volume *(all Participating Agencies)*	x	Applicable tier rate	=	State Annual Sales Volume Incentive

Tier	Annual Overall WSCA-NASPO Participating States' Volume	Tier Rate
1	$500,000,000 - $2,000,000,000	.0045 (45 bps)
2	$2,000,000,001 - $3,000,000,000	.0045 (45 bps)
3	$3,000,000,001 - $4,000,000,000	.0045 (45 bps)
4	$4,000,000,000 +	.0045 (45 bps)

4. **INCENTIVE SHARE PAYMENT SCHEDULE AND TERMS**

A. **Participating Agency Incentives (Incentive Share Components #1-3)**

1) Incentive Share Components #1-3 (Volume Sales Incentive, Prompt Payment Incentive and Large Ticket Transaction Incentive) will be paid quarterly to the Participating Agency within 60 days following the last day of each calendar quarter.

Quarter 1: January 1 - March 31
Quarter 2: April 1 - June 30
Quarter 3: July 1 - September 30
Quarter 4: October 1 - December 31

2) Incentive Share Components #1-3 will be paid via check to each Participating Agency, unless the Participating Agency requires another form of payment.

3) Any Participating Agency that does not earn a minimum of $75.00 for combined Incentive Share Components #1-3 per calendar quarter will forfeit its incentive share for that quarter.

4) In the event that the Participating Agency's subscription agreement is terminated prior to the completion of any quarter (3 calendar months), payment for Incentive Share Components #1-3 shall be made to the Participating Agency within 60 days following the last day of the quarter in which the termination occurred for any incentive share earned prior to the termination date.

5) Payment made for Incentive Share Components #1-3 will be net of accumulated Charge-offs. "Charge-off" means the entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred eighty (180) days after the Billing Cycle close date.

6) Any Charge-offs in excess of the net Incentive Share Components #1-3 from one (1) calendar quarter will be subtracted from one (1) or more of the following calendar quarters.

B. **State Incentives (Incentive Share Component #4)**

Incentive Share Component #4 will be paid annually to the DGS within 60 days following the last day of the calendar year. Incentive Share Component #4 will be paid via check to the DGS, unless the DGS requires another form of payment.

In the event that the Participating Addendum is terminated prior to the completion of any calendar year, payment for Incentive Share Component #4 shall be made to the DGS within 60 days following the last day of the calendar year for annual volume sales which occurred prior to the Participating Addendum termination date.

5. **INCENTIVE SHARE COMPONENT ADJUSTMENT (INTERCHANGE)**

In the event the Visa U.S.A. Corporate and Purchasing Interchange Reimbursement Fees, including the Visa Large Purchase Advantage Fee Program, decrease or increase by five percent (5%) or more from the April 2014 published interchange rates, Contractor will have the right (but not obligation) to replace the current Revenue Sharing Opportunity with a new Revenue Sharing Opportunity proportionate to the change of the revised interchange rates. Contractor will provide written justification to the State Contract Administrator and propose a proportional change to the rebate, with proof of the change to the referenced interchange tables. The revenue sharing component will not change during the first year of the Participating Addendum.

6. **CARD FEES**

Applicable purchase card fees include:

Fee Description	Charge
1. Annual Card Fee	$0.00
2. Non-Sufficient Funds Fee, per occurrence	$0.00
3. Logo Embossing Fee (*A two-week delay may occur with Card issuance and implementation*)	$0.00
4. Delinquency/Late Fee[1/] *(Local Governmental Agencies only)* • Not Paid by Due Date on entire past due amount • Not Paid by each subsequent Billing Cycle on the entire past due amount • Minimum Late Fee	 1.0% 2.5% $2.00
5. Foreign Transaction Fee, per occurrence *(Fee applies to transactions taking place outside the United States not in U.S. Dollars.)*	2.5%

[1/] Delinquency/Late fees are only applicable for local governmental agencies as described in Exhibit A, Section 1.L (Late Payment Penalties).

EXHIBIT F – Glossary of Terms

1. INTRODUCTION

Terms used throughout this Participating Addendum are defined below. Additional terms may be defined within individual exhibits.

2. DEFINITIONS

Term	Definition
Access Online®	Contractor's system for card program management and reporting.
Account	Any account number assigned to a Participating Agency to which charges and payments may be posted.
Agency Program Administrator	The employee designated by Participating Agency to serve as the primary point of contact between Participating Agency and U.S. Bank and shall be responsible for the Participating Agency's CAL-Card program management and oversight. This includes contract terms, timely payment of invoices, the development and enforcement of agency policy, procedures, and training program. A Purchasing Officer or equivalent normally holds this position.
Billing Cycle	The period of time from which a Statement is generated until the next Statement is generated.
CAL-Card	The official registered service mark name for the State of California's Purchase Card Program.
Cardholder	An individual that is designated by the Agency Program Administrator to be a CAL-Card card recipient and make official government purchases.
Charge	Any transaction posted to an Account that has a debit value.
Charge-off	The entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred eighty (180) days after the Billing Cycle close date.
Client Held Days	"Client Held Days" means the sum of the daily balances for the calendar quarter divided by the total Net Charge Volume for the calendar quarter less fifteen (15) days and cannot be less than zero (0) days.
Client Held Days Payment Performance	The average speed of repayment of Charges made for each calendar quarter.
Foreign Transaction Fee	The fee U.S. Bank charges on the amount of any Debt or other Transaction posted to an Account that is not in the same currency in which the Account is billed and which must be converted to the currency used for billing purposes.
Fraudulent Charges	Charges which are not initiated, authorized, or otherwise requested by Participating Agency and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Participating Agency and/or a Cardholder.
Incentive Share	Actual monies paid to the State and/or each Participating Agency based on volume and speed of pay.

Term	Definition
Large Ticket Transaction	A transaction which qualifies for an incentive interchange rate that is lower than the standard interchange provided on a card transaction. Transaction size to qualify will vary over time with interchange rate changes set by card networks. Large ticket interchange rates may require the merchant to provide additional enhanced data to qualify for the lower rate, however exceptions to this requirement can occur.
Local Governmental Agency	Pursuant to Public Contract Code §10298 and for purposes of this Participating Addendum, a "local government agency" is any city, county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services. Further, for purposes of this Participating Addendum, reference to local government agencies will also include the California State Universities (CSU) and University of California (UC) systems.
Net Charge Volume	All charges set forth on the Statements furnished for all Accounts, less fees, Fraudulent Charges, chargebacks, and amounts Charged-off by U.S. Bank with respect to such Accounts as uncollectible for each calendar quarter.
Participating Agency	A state agency or local governmental agency that has executed a properly completed Subscription Agreement and/or Local Agency Subscription Agreement and received required credit approval from the Contractor for participation in the State's CAL-Card Program under the Participating Addendum.
Quarterly Large Ticket Volume	Those Charges for each calendar quarter which the Association governing Customer's Card Program (Visa) has determined qualify for large ticket interchange rates and which are processed by such Association using large ticket interchange rates, less credits. All other Charges and all amounts related to Fees, Fraudulent Charges, chargebacks and Charge-offs are excluded from Large Ticket Volume.
Quarterly Volume Sales	All Charges set forth on the Billing Statements furnished for all Accounts, less Fees, Fraudulent Charges, chargebacks, and amounts Charged-off by Contractor with respect to such accounts as uncollectible for each calendar quarter.
State Agency	A State of California government agency, department, bureau, board, or commission.
State Contract Administrator	Individual designated by the Department of General Services as the single point of contact for the State of California CAL-Card Program and Participating Addendum.
Subscription Agreement	Supplement to the Participating Addendum, by qualified agencies, agreeing to all terms and conditions of the Participating Addendum.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH US BANK AND TO SIGN STATE OF CALIFORNIA PARTICIPATING ADDENDUM NO. 7-14-99-22 FOR CONTINUED USE OF THE CAL CARD PROGRAM	}	**RESOLUTION NO. 2014-**

WHEREAS, the State of California, Department of General Services (DGS) Procurement Division, announced a new Cal Card Contract effective September 29, 2014 to December 31, 2018 that they have awarded to U.S. Bank; and

WHEREAS, the existing Master Services Agreement (MSA) #5-06-99-01 for purchase card services expired on October 18, 2013; and

WHEREAS, the State of California, DGS, is replacing MSA 5-06-99-01 with 7-14-99-22 that is valid through December 31, 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby authorize the City Manager to enter into an agreement with U.S. Bank and to sign a new State of California Participating Addendum No. 7-14-99-22 for continued use of the Cal Card Program.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

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CITY OF TURLOCK INC. 1908

Council Synopsis

December 9, 2014

From: Roy W. Wasden, City Manager

Prepared by: Sarah Eddy, Human Resources Manager

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Conducting a Citywide Total Compensation Study that will be completed on or about January 2017 and will include all unrepresented employees and all bargaining groups wishing to participate

2. DISCUSSION OF ISSUE:

On January 23, 1995, the City of Turlock conducted a Salary Compensation Survey. On July 10, 2001, the City Council approved a contract with Cooperative Personnel Services (CPS) to conduct a Management Classification Study.

The City Council made a commitment during 2014 negotiation discussions to conduct a Citywide Total Compensation Study for represented and unrepresented employees. The parameters of the study will be as follows:

1. Conduct a Comprehensive Total Compensation Study (hereinafter "Study") for unrepresented employees and all bargaining groups who want to participate.

2. The goal is to complete the Study on or about January 2017.

3. The City will allow unrepresented employees and all bargaining groups to provide input regarding the following:

   (a) comparable cities to be used for the Study (recommended cities will be brought back to the City Council for final approval); and

   (b) positions to be studied.

4. None of the parties will be bound by the results of the Study; however, the results of the Study may be used to aid the parties in future negotiations.

3. BASIS FOR RECOMMENDATION:

Strategic Plan Initiative: B. FISCAL RESPONSIBILITY

Goal(s): a. Create an "efficient" yet effective City government organization.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact: Cost of consultant to prepare Study.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

A. Do not approve Total Compensation Study.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF CONDUCTING A CITYWIDE TOTAL COMPENSATION STUDY THAT WILL BE COMPLETED ON OR ABOUT JANUARY 2017 AND WILL INCLUDE ALL UNREPRESENTED EMPLOYEES AND ALL BARGAINING GROUPS WISHING TO PARTICIPATE	}	RESOLUTION NO. 2014-

WHEREAS, on January 23, 1995, the City conducted a Salary Compensation Survey; and

WHEREAS, on July 10, 2001, the City Council approved a contract with Cooperative Personnel Services (CPS) to conduct a Management Classification Study; and

WHEREAS, the City Council has made a commitment to conduct a citywide total compensation study for represented and unrepresented employees.

NOW, THEREFORE, the City Council of the City of Turlock will:

1. Conduct a comprehensive total compensation study (hereinafter "Study") for unrepresented employees and all bargaining groups who want to participate.

2. The goal is to complete the Study on or about January 2017.

3. The City will allow unrepresented employees and all bargaining groups to provide input regarding the following:

   (a) comparable cities to be used for the Study; and
   (b) positions to be studied.

4. None of the parties will be bound by the results of the Study; however, the results of the Study may be used to aid the parties in future negotiations.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____

Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

5Y

Council Synopsis

December 9, 2014

From: Roy Wasden, City Manager
Phaedra Norton, City Attorney

Prepared by: Roy Wasden, City Manager
Phaedra Norton, City Attorney

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Resolution: Designating Council Member Matthew Jacob as the Council representative for District 1 and Council Member Bill DeHart, Jr. as the Council representative for District 3 pursuant to City of Turlock Ordinance 1197-CS [Turlock Municipal Code §2-1-06(c)]

2. DISCUSSION OF ISSUE:

In the November 2014 regular municipal election the Citizens of Turlock voted to implement City of Turlock Ordinance 1197-CS changing the Council election system from at-large elections to by-district elections. The implementation of this ordinance requires the two Council Members elected in the at-large November 2014 election to be appointed as representatives for District 1 and District 3. The pertinent part of the ordinance reads:

> *(c) A period of transition from at-large to District elections will occur from the time of adoption of the first districting plan to the time that the by-district elections are held for all Council member districts. During this period of transition,* ***each Council member elected at-large in the regular municipal election of November 2014 will be designated by the Council as the council member representing Districts One or Three in the districting plan whether or not that Council member resides in the district.*** *The first by-district elections for Districts Two and Four shall occur during the regular municipal election on November 2016. The first by-district elections for Districts One and Three shall occur during the regular municipal election in November 2018. Nothing contained herein shall prevent an incumbent Council member at the time of the effective date of this ordinance from running for a Council district in which that Council member resides other than the district for which that member currently holds office, if the councilmember is otherwise eligible to run in that district and vacates the office of Council member for the district of non-residency if elected. No Council member may hold office in more than one district.*

> *Each incumbent Council member elected at-large shall be allowed to complete the term for which he or she was elected regardless of the district of residency, so long as they otherwise remain eligible to hold the office and have not been removed for cause or elected to another office. For purposes of this section "by-district" shall mean that the Council member shall reside within the district and be elected by the voters of that district only.*

Elected at-large in the regular municipal election of November 2014 were Bill DeHart, Jr. and Matthew Jacob as Council Members. As Council Member Jacob lives in Council District 1 and Council Member DeHart lives in Council District 3, it is recommended that they each be appointed as representatives of the Council District in which they reside.

3. BASIS FOR RECOMMENDATION:

Comply with the requirements of City of Turlock Ordinance 1197-CS and appoint by-district representatives for Council Districts 1 and 3.

Not specifically identified within the City Strategic Plan.

4. FISCAL IMPACT:

There is no fiscal impact associated with this action.

5. CITY MANAGER'S COMMENTS:

Recommend approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

Council could choose to appoint the newly elected at-large Council Members Bill DeHart, Jr. and Matthew Jacob to districts in which they do not currently reside.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF DESIGNATING	**}**	**RESOLUTION NO. 2014-**
COUNCIL MEMBER MATTHEW JACOB	**}**	
AS THE COUNCIL REPRESENTATIVE	**}**	
FOR DISTRICT 1 AND COUNCIL MEMBER	**}**	
BILL DEHART, JR. AS THE COUNCIL	**}**	
REPRESENTATIVE FOR DISTRICT 3	**}**	
PURSUANT TO CITY OF TURLOCK	**}**	
ORDINANCE 1197-CS [TURLOCK	**}**	
MUNICIPAL CODE §2-1-06(c)]	**}**	

WHEREAS, in the November 2014 regular municipal election the Citizens of Turlock voted to implement City of Turlock Ordinance 1197-CS (Attachment A) changing the Council election system from at-large elections to by-district elections; and

WHEREAS, implementation of this ordinance requires the two Council Members elected in the at-large November 2014 election to be appointed as representatives for District 1 and District 3; and

WHEREAS, elected at-large in the regular municipal election of November 2014 were Bill DeHart, Jr. and Matthew Jacob as Council Members; and

WHEREAS, Council Member Jacob lives in Council District 1 and Council Member DeHart lives in Council District 3, it is recommended that they each be appointed as representatives of the Council District in which they reside

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby designate Council Member Matthew Jacob as the Council representative for District 1 and Council Member Bill DeHart, Jr. as the Council representative for District 3 pursuant to City of Turlock Ordinance 1197-CS [Turlock Municipal Code §2-1-06(c)].

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

ATTACHMENT A

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AMENDING TURLOCK MUNICIPAL CODE TITLE 2, CHAPTER 1, TO ESTABLISH ELECTORAL DISTRICTS FOR ELECTION OF MEMBERS OF THE TURLOCK CITY COUNCIL BY DISTRICTS AND ELECTION OF THE MAYOR OF TURLOCK AT-LARGE, SUBJECT TO APPROVAL BY A VOTE OF THE PEOPLE	}	ORDINANCE NO. 1197-CS

BE IT ORDAINED by the City Council of the City of Turlock as follows:

SECTION 1. AMENDMENT: Title 2, Chapter 1, is hereby amended by adding Section 2-1-05 to read as follows:

2-1-05 Enumeration of officers and terms.

The elective officers of the City of Turlock shall be a Mayor and four (4) Council members. The Council shall consist of the Mayor and four (4) Council members, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council. The term of office of the Mayor shall be four (4) years, and the term of office of each Council member shall be four (4) years.

SECTION 2. AMENDMENT: Title 2, Chapter 1, is hereby amended by adding Section 2-1-06 to read as follows:

2-1-06 Establishment of council districts.

(a) The districting plan establishing four (4) Council districts shall be approved by the voters of the city at-large. The districting plan shall be adjusted by ordinance of the City Council to equalize population among the districts before the first day of November of the year following the year in which each decennial federal census is taken, in accordance with Elections Code Section 21602. The boundaries and the number of each of the four (4) electoral districts for City Council are set forth in Exhibit A, including a map of the districts, which is incorporated herein by reference. Any districting plan shall be adopted by ordinance subject to referendum. The City Clerk is authorized to make non-substantive technical adjustments to the district boundaries not affecting the population of any district, the eligibility of candidates, or the residence of elected officials within any district.

(b) Each Council district shall be assigned a district number, with districts numbered one through four as indicated in Exhibit A. The districting plan adjusted for census data shall include boundaries for each of the four (4) Council member election districts for use in the November 2016 and November 2018 regular municipal elections.

The Council members of the two even-numbered districts shall be elected by-district in November of 2016 for a term of four (4) years. The Council members of the two odd-numbered districts shall be elected by-district in November 2018 for a term of four (4) years.

After the approval of this ordinance at the regular municipal election of November 2014 all persons appointed to fill vacancies on the City Council and all persons elected to fill vacancies on the City Council at a special municipal election shall reside within the district to which they are appointed or elected.

(c) A period of transition from at-large elections to District elections will occur from the time of adoption of the first districting plan to the time that the by-district elections are held for all Council member districts. During this period of transition, each Council member elected at-large in the regular municipal election of November 2014 will be designated by the Council as the council member representing Districts One or Three in the districting plan whether or not that Council member resides in the district. The first by-district elections for Districts Two and Four shall occur during the regular municipal election in November 2016. The first by-district elections for Districts One and Three shall occur during the regular municipal election in November 2018. Nothing contained herein shall prevent an incumbent Council member at the time of the effective date of this ordinance from running for a Council district in which that Council member resides other than the district for which that member currently holds office, if the councilmember is otherwise eligible to run in that district and vacates the office of Council member for the district of non-residency if elected. No Council member may hold office in more than one district.

Each incumbent Council member elected at-large shall be allowed to complete the term for which he or she was elected regardless of the district of residency, so long as they otherwise remain eligible to hold the office and have not been removed for cause or elected to another office. For purposes of this section "by-district" shall mean that the Council member shall reside within the district and be elected by the voters of that district only.

SECTION 3. AMENDMENT: Title 2, Chapter 1, is hereby amended by adding Section 2-1-07 to read as follows:

2-1-07 Method of election.

(a) Mayor. The Mayor shall be elected at the regular municipal election in November of 2014 and every four (4) years thereafter, by the voters of the City at-large, and must reside within the City boundaries. The Mayor shall be elected by the voters of the City at-large.

(b) District Council members. One member of the City Council shall reside in each of the four (4) electoral districts established by this ordinance and shall be elected by a vote of the voters of that district only. Each district shall elect one Council member. Except as provided in Section (c), a Council member of each district must live in that district and must be a registered voter in that district to be eligible to hold the office of Council member for that district, and a candidate for any district must live in that district and must be a registered voter in that district to be eligible to run for the office of Council member for that district. Only voters who live in a district shall be eligible to vote in the election for Council member of that district. Each Council member must reside within the district for the full term of office; termination of residency within the district shall create an immediate vacancy for that Council district unless a substitute residence within the district is established within thirty (30) days of termination of residency.

(c) Election of Council members. The members of the Council in office at the time this ordinance takes effect shall continue in office until the expiration of their terms and until their successors are elected and qualified. If a tie vote makes it impossible to determine which of two or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. No candidate shall file for more than one (1) elective office. Any member of the Council may run for the office of Mayor, and upon election as Mayor shall forfeit the office of Council member of any district.

SECTION 4. VALIDITY: If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The Turlock City Council hereby declares that they would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more section, subsection, sentence, clause, word, or phrase be declared invalid or unconstitutional.

SECTION 5. ENACTMENT: This ordinance shall take effect thirty (30) days after its passage by the City Council, and following the affirmative vote of a majority of the electors at-large of the City of Turlock voting on the measure. Prior to the expiration of fifteen (15) days from the passage and adoption thereof, this ordinance shall be published in a newspaper of general circulation printed and published in the County of Stanislaus, State of California, together with names of the members of the City Council voting for and against the same.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 10th day of June, 2014, by the following vote:

AYES:	Councilmembers DeHart, Nascimento, Bublak, White and Mayor Lazar
NOES:	None
NOT PARTICIPATING:	None
ABSENT:	None

Signed and approved this 10th day of June, 2014.

John Lazar

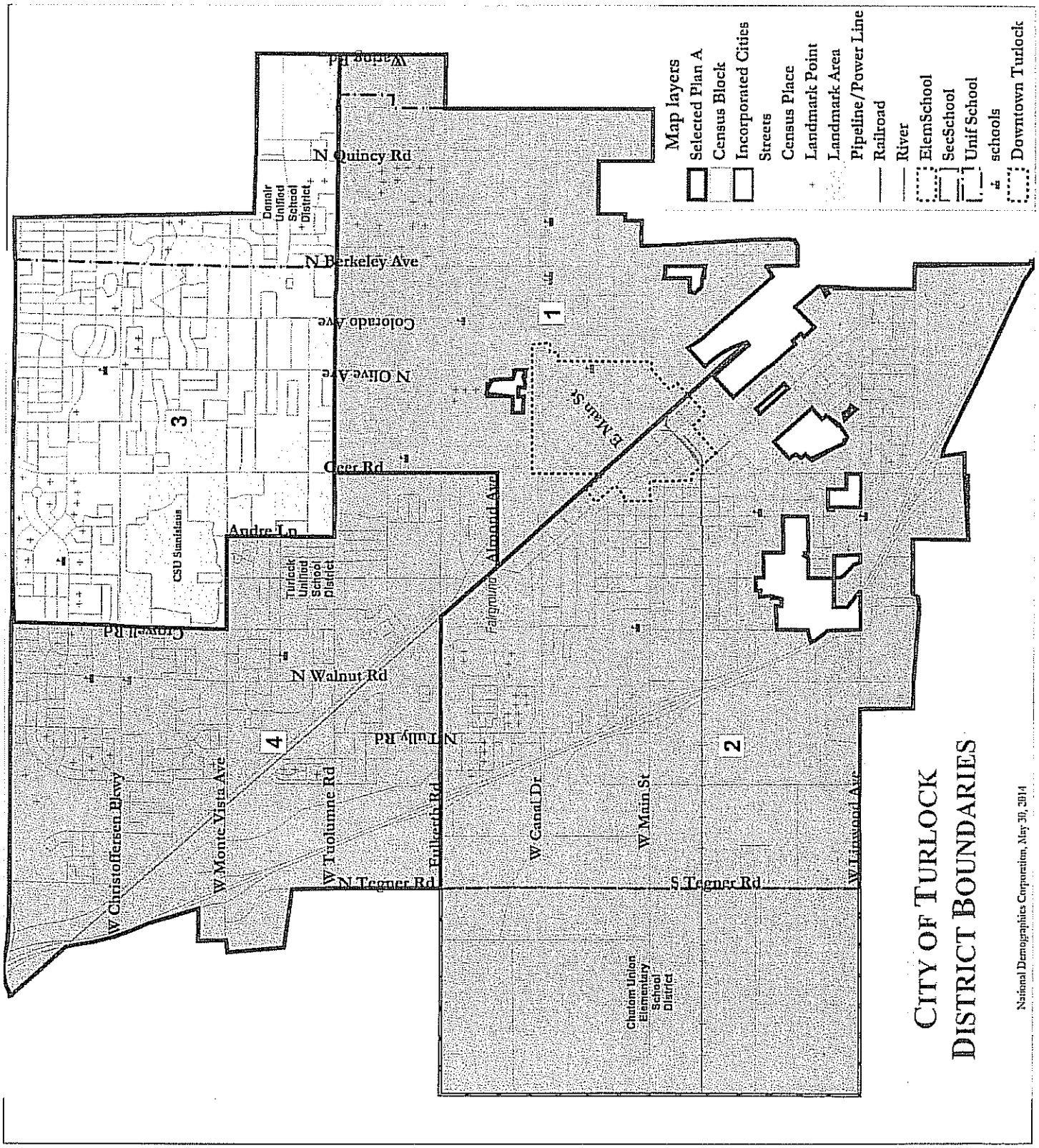
JOHN S. LAZAR, Mayor

ATTEST:

Stacey Tonarelli

Stacey Tonarelli, City Clerk,
City of Turlock, County of Stanislaus,
State of California

EXHIBIT A


Map layers
Selected Plan A
Census Block
Incorporated Cities
Streets
Census Place
Landmark Point
Landmark Area
Pipeline/Power Line
Railroad
River
ElemSchool
SecSchool
Unif School
schools
Downtown Turlock
Waring Rd
N Quincy Rd
Denair Unified School District
N Berkeley Ave
Colorado Ave
N Olive Ave
Geer Rd
Andre Ln
CSU Stanislaus
Turlock Unified School District
Crowell Rd
N Walnut Rd
N Tully Rd
Fairgrounds Avenue
E Main St
W Christoffersen Pkwy
W Monte Vista Ave
W Tuolumne Rd
N Tegner Rd
Enlkerth Rd
W Canal Dr
W Main St
S Tegner Rd
W Linwood Ave
Chatom Union Elementary School District
1
2
3
4
CITY OF TURLOCK
DISTRICT BOUNDARIES
National Demographics Corporation, May 30, 2014

RECEIVED 5W

NOV 17 2014

City of Turlock
Administrative Services

CLAIM FORM

Please type or print and return via personal delivery or U.S. Mail.
Electronic copies (fax or e-mail) will not be accepted.

156 S. BROADWAY, SUITE 230 | TURLOCK, CALIFORNIA 95380 | PHONE 209-668-5540 | FAX 209-668-5668

CLAIM AGAINST: City of Turlock
(Name of Entity)

Claimant's name: Albert E Souza

SS#: [redacted] **DOB:** 4-7-27 **Gender:** Male X Female ___

Claimant's address: 672 Chestnut St. Turlock

Claimant's Telephone Number(s): 209-634-1253

Address where notices about claim are to be sent, if different from above: —

Date of incident/accident: 11-8-14

Date injuries, damages, or losses were discovered: 11-8-14

Location of incident/accident: Hawkey & Tully Rd

What did entity or employee do to cause this loss, damage, or injury? Traffic Signals Close To Curb - Has been Removed Since Then

(Please use back of this form or separate sheet, if necessary, to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? No Person Involved

What specific injuries, damages, or losses did claimant receive? Sign was to Close To Steel

(Please use back of this form or separate sheet, if necessary, to answer this question in detail.)

If the amount of your claim does not exceed $10,000, state the total amount claimed : $25.00

If the amount of your claim exceeds $10,000, indicate whether your claim would be a "limited civil case" (if the amount claimed does not exceed $25,000 it is treated as a limited civil case) please check one box:

☒ **DOES NOT EXCEED $25,000** ☐ **EXCEEDS $25,000** [see Government Code 910(f)]

How was this amount calculated (please itemize)? Had Repairs Done Statement Attached

(Please use back of this form or separate sheet, if necessary, to answer this question in detail.)

Date Signed: 11-17-14 **Signature:** Albert E Souza

If signed by representative:

Print Representative's Name _____ Telephone _____

Address _____

Relationship to Claimant _____

March 2014

Customer Copy

DON'S MOBILE GLASS

375316-C17
Federal Tax ID: 94-1631634
State License: AB006607

Remit To: 3800 Finch Rd, MODESTO, CA 95357

P/O#:
Taken By: andyr
Installer: 191
Manual Invoice#:
SalesRep:

Cust State Tax ID:
Cust Fed Tax ID:
Ship Via:

Adv. Code:RC

Workorder: WTUR098171
Date: 11/15/2014
Time: 10:34 AM

Bill To: CASH-TURLOCK

AL SOUZA

(209) 634-1753

Sold To: CASH-TURLOCK

AL SOUZA
TURLOCK, CA 95380

Qty	Part Number	Description	List	Disc%	Sell	Total
1	1152	1152 SIDE VIEW MIRROR			$23.23	$23.23
	Bin: BFC03					

Thank You for your patronage
Mobile Install Installer: 191

DONS MOBILE GLASS
326 S. CENTER ST
TURLOCK, CA 95380

11/15/2014 12:07:19
MID: 000000001712248 TID: 02570618

CREDIT CARD

VISA SALE

CARD #	XXXXXXXXXXXX9669
INVOICE	0003
SEQ #:	0003
Batch #:	001303
Approval Code:	015981
Entry Method:	Swiped
Mode:	Online

SALE AMOUNT $25.00

CUSTOMER COPY

ATION TO PAY

I hereby authorize and empower the above-named insurance company to pay this invoice in full settlement, satisfaction and discharge of all loss under the above policy. Upon such payment, all rights I may have for claim and demand for loss and damage described above against the above named insurance company shall be thereby forever discharged. In the event that the above named insurance company does not make timely and/or full payment of this invoice according to its terms, I hereby accept responsibility for such payment and agree to pay all charges reflected on this invoice to the above named glass company subject to and according to all terms and conditions on this invoice.

Collect From Customer	$25.00
Sub Total:	$23.23
Tax:	$1.77
Total:	$25.00

Customer's Signature:_____ COD

Turlock 326 S Center St TURLOCK, CA 95380 PH:(209) 667-1222 FAX:(209) 667-1247

6A

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AMENDING THE ZONING MAP OF THE CITY OF TURLOCK, CALIFORNIA, ATTACHED TO TITLE 9 OF THE TURLOCK MUNICIPAL CODE [REZONE 2014-01 (EAST TUOLUMNE MASTER PLAN AMENDMENT)]	}	ORDINANCE NO. -CS

BE IT ORDAINED by the City Council of the City of Turlock as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION. The City Council finds that the report or declaration reflects the independent judgement of the lead agency and that the project will not have a significant effect on the environment and hereby adopts the Mitigated Negative Declaration and the Mitigation Monitoring and Report Program ("Checklist"), and further directs that a Notice of Determination be filed.

SECTION 2. ZONING CHANGE. The Zoning Map of the City of Turlock is hereby amended to rezone the following described property from Very Low Density Residential (VLDR) to Low Density Residential (R-L) as designated in the Amended East Tuolumne Master Plan, under the provisions of Title 9 of the Turlock Municipal Code, and said real properties shall hereafter be subject to the provisions and regulations of this Chapter relating to property located within such Districts. Said property is described as follows:

2707 E. Tuolumne Road (Stanislaus County APN 073-013-003)
3007 E. Tuolumne Road (Stanislaus County APN 073-013-004)

SECTION 3. ZONING MAP. The Zoning Map of the City of Turlock, California, attached to Title 9 of the Turlock Municipal Code is amended to appear as set forth on the map attached hereto (Exhibit A), which is hereby made a part of this ordinance by reference.

SECTION 4. VALIDITY. If any section, subsection, sentence, clause, word, or phrase, of this ordinance is held to be unconstitutional or other wise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The Turlock City Council hereby declares that they would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more section, subsection, sentence, clause, word, or phrase be declared invalid or unconstitutional.

SECTION 5. ENACTMENT. This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption. Prior to the expiration of fifteen (15) days from the passage and adoption thereof, this ordinance shall be published in a newspaper of general circulation printed and published in the County of Stanislaus, State of California, together with names of the members of the City Council voting for and against the same.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

Signed and approved this 9th day of December, 2014.

_____
John Lazar, Mayor

ATTEST:

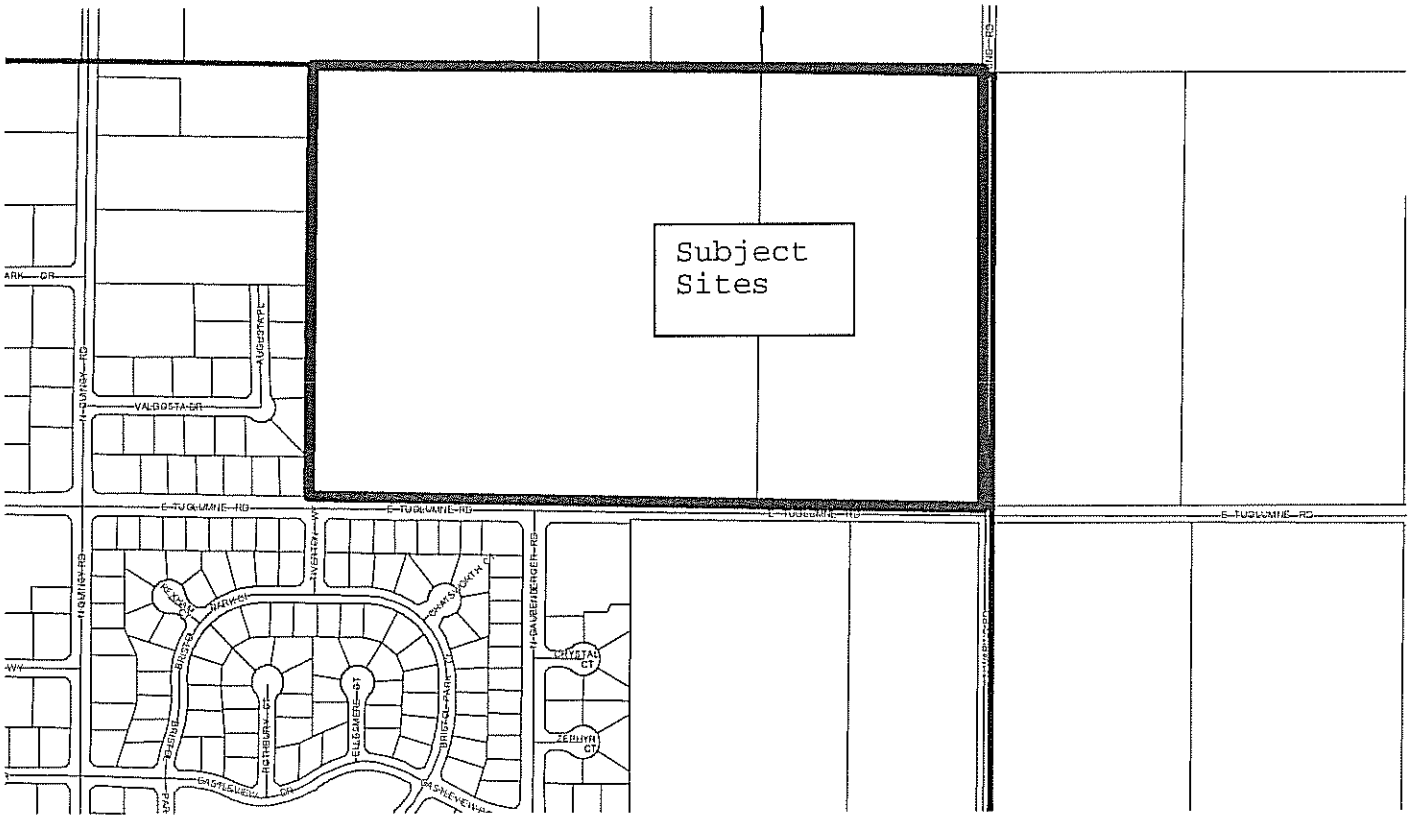
_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

Exhibit A
REZONE 2014-01

SITE MAP

2707 E. Tuolumne Road (Stanislaus County APN 073-013-003)

3007 E. Tuolumne Road (Stanislaus County APN 073-013-004)



BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF ESTABLISHING CONDITIONS OF APPROVAL FOR REZONE 2014-01 (EAST TUOLUMNE MASTER PLAN AMENDMENT)	}	RESOLUTION NO. 2014-

WHEREAS, a Rezone application (Rezone 2014-01) has been filed, in the office of the Secretary of the Planning Commission, by Ron Katakis and Chris Hawke, in accordance with the provisions of the Turlock Municipal Code to rezone certain property to Low Density Residential in accordance with the amended East Tuolumne Master Plan; and

WHEREAS, the rezoning is required to facilitate the development of a single family residential subdivision with a minimum lots size of 7,000 square feet and a density of 3-4 units per acre; and

WHEREAS, the project will be developed generally consistent with the standards of the Low Density Residential (R-L) Zoning District as designated in the Amended East Tuolumne Master Plan document; and

WHEREAS, the properties affected by this Resolution are described as follows: 2707 & 3007 E Tuolumne Road, Stanislaus County APNs 73-13-03 & 73-13-04; and

WHEREAS, the Planning Commission considered the request on November 6, 2014, and by a six yes and one no vote recommended the City Council approve the proposed amendment to the official City of Turlock Zoning Map; and,

WHEREAS, on November 18, 2014 the City Council considered the request, the Planning Commission recommendation, and the Environmental Review documentation and testimony and found that Rezone No. 2014-01, will not have a significant adverse impact upon the environment and directed that a Notice of Determination for a Mitigated Negative Declaration be filed; and

WHEREAS, the City Council held a public hearing on November 18, 2014, and considered the public testimony before introducing the ordinance amending the zoning map of the City of Turlock, attached to Title 9 of the Turlock Municipal Code (Rezone 2014-01, East Tuolumne Master Plan Amendment); and

WHEREAS, a second reading of the ordinance occurred on December 9, 2014 at a public noticed meeting, the Turlock City Council voted to enact the ordinance amending the zoning map of the City of Turlock, attached to Title 9 of the Turlock Municipal Code pursuant for Rezone 2014-01, East Tuolumne Master Plan Amendment by a XXXXXXXXXXXXX vote.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby approve the conditions for Rezone 2014-01, in accordance with the plan and amended Master Plan filed as part of the Planning Commission consideration, referred to above, and which is on file in the office of the Turlock Planning Division. The following conditions shall apply, as well as compliance with all applicable codes and ordinances:

CONDITIONS FOR REZONE 2014-01

1. This approval authorizes the rezoning of 2707 & 3007 East Tuolumne Road & from Very Low Density Residential to Low Density Residential as established in the Amended East Tuolumne Master Plan document.
2. This project shall be subject to the conditions set forth in Resolution No. 2014-11, the development standards and Design Guidelines established in the amended East Tuolumne Master Plan, the City of Turlock Standard Conditions of Approval (Resolution No. 91-54), and the mitigation measures detailed in the CEQA Initial Study prepared for this project.
3. A 7 foot tall masonry wall shall be constructed along the northern boundary of the Master Plan area.
4. The wall along Waring Road shall include pillars or other architectural features to help break up the long expanse of the wall.
5. Split rail fencing shall be installed in the 15 foot landscape area adjacent to Waring Road. The fencing shall not exceed 4 feet in overall height.
6. Parking shall not be permitted along Waring Road.
7. The area is located outside of the average response time for the Fire Department. All dwelling units shall have fire sprinklers installed.
8. The project shall be required to meet the California Fire Code, National Fire Code (NFPA), California Mechanical Code, and the City of Turlock Municipal Code in effect at the time of building permit application. THIS IS NOT A PLAN REVIEW. Additional requirements may be applicable upon Fire Dept. review of building plans.
9. Before vertical construction begins: 1) Onsite fire hydrant shall be in service; 2) Blue hydrant markers shall be in street; 3) Asphalt of concrete fire access roadway shall be installed; 4) Temporary address signage shall be clearly visible from the primary roadway.
10. Fire sprinklers shall be required. Four sets of fire sprinkler plans, architectural plans and calculations shall be submitted by a licensed C-16 fire sprinkler contractor to the Fire Department in accordance with NFPA 13 and City of Turlock Municipal Code.
11. Development in the area must comply with all San Joaquin Valley Air Pollution Control District rules and regulations.
12. In the event that multiple final maps are filed, the City of Turlock reserves the right to impose reasonable conditions relating to the filing of multiple final maps.
13. The City of Turlock standard improvements necessary for fire and safety purposes shall be installed and accepted by the Fire Department prior to the issuance of any Building Permit.
14. Construction of the required improvements may be deferred until after recording of the subdivision map provided that a subdivision agreement has been executed, bonds and insurance certificates filed, and all fees paid.
15. Provide easements per the Turlock Irrigation District.
16. Provide 10 foot Public Utility Easement behind property along all street frontages.
17. Prior to filing of the final map, the developer shall provide written consent, as provided in Section 54717 of the California Government Code, to the levy of an assessment to finance the operation and maintenance of drainage, flood control, street maintenance, and street lighting service which benefits the area to be developed.

18. Prior to filing of the final map, the developer shall provide written consent, as provided in Section 22608 of the Streets and Highways Code, to the formation of an assessment district to finance the maintenance of landscaping.
19. Final maps shall be based upon and tied to a minimum of two (2) monuments on our grid system. The City of Turlock's grid system was established on Volume 20 of surveys, at page 56, Stanislaus County Records 20-S-56.
20. The developer will be required to pay the development impact fees adjusted to the current Engineering News Record.
21. Prior to improvement plan approval, a detailed hydrology/drainage study will be required to be submitted to the City Engineer for review and approval. The study shall be prepared by a registered Civil Engineer and shall include existing and proposed conditions.
22. All lots shall be graded to drain towards the public street with no cross lot drainage allowed. If the grade differential between lots or surrounding ground is 1 foot or greater a retaining wall shall be required per City of Turlock standards. If the grade differential between lots or surrounding ground is between 1/2 foot and 1 foot, the developer shall use a wood type retaining wall/fence depending on the individual situation, to be approved by the City Engineer as part of the subdivision improvement plans.
23. All building pads shall be 1/2 foot higher than the nearest flow-line high point. This condition may be waived by the City Engineer if upon review of the hydrology study he deems it is not necessary.
24. Each lot will have access to a water service prior to the issuance of any Building Permits as reasonably approved by the City Engineer and Fire Marshall.
25. A grading permit is required before you move any dirt or before any building permit is issued. Provide the quantity of dirt to be moved, as well as (6) sets of the grading and erosion control plans for review and approval under the grading permit process. For projects that disturb more than 1 acre of land, the developer will need to apply to the State of California Water Resource Control Board for a Notice of Intent. The grading permit will not be issued without this being done.
26. Full off-site improvements (curb, gutter, sidewalk, pave-out, fire hydrants, electroliers, etc.) must be installed along all exist frontage roads and new streets. These off-site improvements, as well as all public streets must be designed and installed per City of Turlock standard specifications and drawings. Please provide a cost estimate of the value of all public works, as well as (6) sets of improvement plans for review and approval.
27. Striping and signing plans shall be included as a part of the final improvement plans. Stop signs shall be installed by the developer. Street name signs will be installed by the City, but paid for by the developer. Developer will prepare a striping plan utilizing thermoplastic and pavement markers in accordance with Caltrans Standard Plans and the MUTCD.
28. Monument signs, fences and trees shall be back thirty-feet (30') from driveway entrances, per City Standard Drawing ST-13 "Clear Vision Triangle".
29. Developer shall stub all wet and dry utilities to each of the proposed lots.
30. The City Engineer reserves the right to require full roadway reconstruction or a 2" asphalt overlay from curb to curb on all existing frontage roads if in the City Engineer's opinion the integrity of the roadway has been compromised by utility cuts or construction practices. Asphalt oil shall be PG 70-10.

31. All trenching in existing public pavement must be repaved per city standard T-1 unless approved by the City Engineer.
32. If any on-site public utilities are proposed, easements over these utilities must be dedicated to the City of Turlock prior to any permits being issued.
33. City of Turlock utilities shall be installed as follows (As Required):
    a. 1 – Sewer service per parcel, sized to provide capacity for all buildings.
    b. 1 – Domestic water service per parcel, sized to provide capacity for all buildings.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of December, 2014, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

_____
Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California