



CITY of CLOVIS

AGENDA • CITY COUNCIL MEETING

Council Chamber, 1033 Fifth Street, Clovis, CA 93612 (559) 324-2060
www.cityofclovis.com

June 1, 2020

6:00 PM

Council Chamber

SPECIAL NOTICE REGARDING PUBLIC PARTICIPATION DUE TO COVID-19

Given the current Shelter-in-Place Order covering the State of California and the Social Distance Guidelines issued by Federal, State, and Local Authorities, the City is implementing the following changes to participate in Council meetings until notified otherwise. The Council chambers will be open to the public but we will be implementing social distancing policies and will limit the number of people who may be in the Council chambers. We are encouraging residents to participate virtually following the directions below. If you are sick, please do not attend the meeting. Any member of the City Council may participate from a remote location by teleconference.

- The meeting will be webcast and accessed at: <https://cityofclovis.com/government/city-council/city-council-agendas/>

Written Comments

- Members of the public are encouraged to submit written comments at: <https://cityofclovis.com/government/city-council/city-council-agendas/> at least one (1) hour before the meeting (5:00 p.m.). You will be prompted to provide:

- Council Meeting Date
- Item Number
- Name
- Email
- Comment



- Please submit a separate form for each item you are commenting on.
- A copy of your written comment will be provided to the City Council noting the item number. If you wish to make a verbal comment, please see instructions below.
- Please specify if you would like to have your written comment read into the record. If so, your comment will be read into the record during the public comment portion when the item is heard. Any portion of your comment extending past three (3) minutes may not be read aloud due to time restrictions, but will be made part of the record of proceedings.
- Please be aware that any written comments received that do not specify a particular agenda item will be marked for the general public comment portion of the agenda.

- If a written comment is received after 5:00 p.m. on the day of the meeting, efforts will be made to provide the comment to the City Council during the meeting. However, staff cannot guarantee that written comments received after 5:00 p.m. will be provided to City Council during the meeting. All written comments received prior to the end of the meeting will be made part of the record of proceedings.

Verbal Comments

- If you wish to speak to the Council on an item by telephone, you should contact the City Clerk at (559) 324-2060 no later than 5:00 p.m. the day of the meeting.
- You will be asked to provide your name, phone number, and your email. You will be emailed instructions to log into Webex to participate in the meeting. Staff recommends participants log into the Webex at 5:30 p.m. the day of the meeting to perform an audio check.
- All callers will be placed on mute, and at the appropriate time for your comment your microphone will be unmuted.
- You will be able to speak to the Council for up to three (3) minutes.

Webex Participation

- Reasonable efforts will be made to allow written and verbal comment from a participant communicating with the host of the virtual meeting. To do so, a participant will need to chat with the host and request to make a written or verbal comment. The host will make reasonable efforts to make written and verbal comments available to the City Council. Due to the new untested format of these meetings, the City cannot guarantee that these written and verbal comments initiated via chat will occur. Participants desiring to make a verbal comment via chat will need to ensure that they accessed the meeting with audio transmission capabilities.

CALL TO ORDER

FLAG SALUTE - Councilmember Whalen

ROLL CALL

PUBLIC COMMENT

ORDINANCES AND RESOLUTIONS - With respect to the approval of resolutions and ordinances, the reading of the title shall be deemed a motion to waive a reading of the complete resolution or ordinance and unless there is a request by a Councilmember that the resolution or ordinance be read in full, further reading of the resolution or ordinance shall be deemed waived by unanimous consent of the Council.

CONSENT CALENDAR - Items considered routine in nature are to be placed upon the Consent Calendar. They will all be considered and voted upon in one vote as one item unless a Councilmember requests individual consideration. A Councilmember's vote in favor of the Consent Calendar is considered and recorded as a separate affirmative vote in favor of each action listed. Motions in favor of adoption of the Consent Calendar are deemed to include a motion to waive the reading of any ordinance or resolution on the Consent Calendar. For adoption of

ordinances, only those that have received a unanimous vote upon introduction are considered Consent items.

1. Administration - Approval - Minutes from the May 18, 2020 Council Meeting.
2. Finance – Approval – Res 20-___ Lease Purchase Agreement with Clayton Holdings LLC for the lease purchase of Fire Safety and Police Vehicles.
3. Planning and Development Services - Approval - Bid Award for CIP 18-11, Fowler Avenue Reconstruction; and Authorize the City Manager to execute the contract on behalf of the City.
4. Public Utilities – Approval – Award Non-Exclusive Franchise Agreements for hauling of Construction and Demolition debris to the following applicants: Clovis Recycling, Inc.; F-N-F Roll-Off Service; HD Matthews Demolition and Excavation; Hinojosa Cleanup Service; Kochergen Farms Composting, Inc; and Accurate Cleaning Systems.

ADMINISTRATIVE ITEMS- Administrative Items are matters on the regular City Council Agenda other than Public Hearings.

5. Consider Review and Approval - Res. 20-___, 2020-2021 City of Clovis Annual Budget, Five Year Capital Improvement Program, and Information regarding the Clovis Successor Agency. (Continued from the May 18, 2020 Council Meeting.)

Staff: Jay Schengel, Finance Director

Recommendation: Approve

6. Consider - A Request to Initiate an Ordinance Amendment to Amend Title 6 of the Clovis Municipal Code to Allow for Backyard Chickens.

Staff: George Rodriguez, Police Services Manager

Recommendation: Consider and provide staff direction

COUNCIL ITEMS

7. Consider Approval - Letter of Support for SB 1386 (Moorlach): Protecting Fire Hydrant System Funding.

Staff: Luke Serpa, City Manager

Recommendation: Approve

8. Workshop – For the Clovis City Council to conduct a workshop to discuss the impact on ongoing City operations during the COVID-19 State of Emergency as declared by the Federal Government, State of California, County of Fresno, and City of Clovis; and to explore actions the City may take in response to the crisis.

- a. Consider Approval – Res. 20-___, A Resolution adopting Emergency Order 2020–14, assisting restaurants severely impacted by the COVID-19 crisis by allowing restaurants the option to temporarily expand capacity into public and private common areas under specified circumstances.

Staff: Luke Serpa, City Manager

Recommendation: Approve

9. Consider Approval – Change of Council Meeting Schedule.

Staff: Luke Serpa

Recommendation: Approve

CITY MANAGER COMMENTS

COUNCIL COMMENTS

CLOSED SESSION - A “closed door” (not public) City Council meeting, allowed by State law, for consideration of pending legal matters and certain matters related to personnel and real estate transactions.

10. Government Code Section 54956.9(d)(1)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Desiree Martinez v. City of Clovis, et al.
11. Government Code Section 54956.9
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of Subdivision (d) of Section 54956.9
1 case
12. Government Code Section 54956.9
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Section 54956.9 (Deciding Whether to Initiate Litigation)
1 case
13. Government Code Section 54957
PUBLIC EMPLOYMENT PERFORMANCE EVALUATION
Title: City Manager
14. Government Code Section 54957.6
CONFERENCE WITH LABOR NEGOTIATORS
Agency designated representatives: City Attorney, David Wolfe
Unrepresented Employee: City Manager

ADJOURNMENT

MEETINGS AND KEY ISSUES

Regular City Council Meetings are held at 6:00 P.M. in the Council Chamber. The following are future meeting dates:

June 8, 2020 (Mon.) (To Be Cancelled)
June 15, 2020 (Mon.)
July 6, 2020 (Mon.)
July 13, 2020 (Mon.)
July 20, 2020 (Mon.)

CLOVIS CITY COUNCIL MEETING

May 18, 2020

6:00 P.M.

Council Chamber

Meeting called to order by Mayor Bessinger
Flag Salute led by Councilmember Mouanoutoua

Roll Call: Present: Councilmembers Ashbeck, Flores, Mouanoutoua, Whalen,
Mayor Bessinger
Absent: None

PUBLIC COMMENTS - None

CONSENT CALENDAR – 6:09 p.m.

Motion by Councilmember Whalen, seconded by Councilmember Flores, that the items on the Consent Calendar, except item 16, be approved, including the waiver of the reading of the ordinance. Motion carried by unanimous vote.

1. Administration - Approved - Minutes from the May 11, 2020 Council Meeting.
2. Administration – **Adopted - Ord. 20-10**, R2019-007, A request to prezone approximately 50.80 acres from the County R-R (Rural Residential) Zone District to the Clovis R-1 (Single-Family Residential) and R-R (Rural Residential) Zone Districts for property located in the southwest area of Teague and N. Fowler Avenues. (Vote: 5-0)
3. Administration – Received and Filed – Economic Development Corporation Serving Fresno County Quarterly Report, January - March 2020.
4. Finance – Received and Filed – Investment Report for the Month of December 2019.
5. Finance – Received and Filed – Treasurer’s Report for the Month of December 2019.
6. Finance – Received and Filed – Investment Report for the Month of January 2020.
7. Finance – Received and Filed – Treasurer’s Report for the Month of January 2020.
8. Finance – Received and Filed – Investment Report for the Month of February 2020.
9. Finance – Received and Filed – Treasurer’s Report for the Month of February 2020.
10. Finance – Approved - Selection of Consulting Firm to Perform ERP and Utility Billing Software Consulting Services.
11. General Services – Approved - **Res. 20-60**, Authorizing Amendments to the City’s Classification and Compensation Plans to Adopt a Public Affairs and Information Manager Classification and Salary Range of \$9,735 to \$11,834 per month; and Approved – **Res. 20-61**, Amending the City’s FY 2019-20 Position Allocation Plan.
12. General Services - Approved – Selection of Roofing Contractor to Repair/Reroof Buildings B, C, D & E at Operations and Maintenance Service Center.
13. General Services - Approved – **Res. 20-62**, Adopting the FY2020-2021 Consolidated Transportation Service Agency (CTSA) Operations and Program Budget for Roundup Transit Services.
14. General Services – Approved - **Res. 20-63**, Approving Side Letter Agreements with CEA and CPSEA, and; authorizing City Manager to Execute Agreements.
15. Planning and Development Services - Approval - Final Acceptance for CIP 13-02, Shepherd and Minnewawa Traffic Signal.

ITEM 16 – 6:10 – RECEIVED - PUBLIC UTILITIES – PRESENTATION OF PROCLAMATION DESIGNATING MAY 17-23, 2020 AS NATIONAL PUBLIC WORKS WEEK.

Councilmember Mouanoutoua requested the Mayor read the proclamation aloud to honor the Public Utility employees.

PUBLIC HEARINGS

ITEM 17 - APPROVED INTRODUCTION - ORD. 20-11, R2019-009, A REQUEST TO APPROVE A REZONE OF APPROXIMATELY 4 ACRES OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF TEMPERANCE AND NEES AVENUES TO BE CONSISTENT WITH THE UNDERLYING GENERAL PLAN DESIGNATION OF MU-BC (MIXED USE- BUSINESS CAMPUS). THIS REQUEST IS TO REZONE THE SUBJECT PROPERTY FROM THE R-A (SINGLE-FAMILY RESIDENTIAL VERY LOW DENSITY) ZONE DISTRICT TO THE C-P (PROFESSIONAL OFFICE) ZONE DISTRICT. BEAL PROPERTIES INC., PROPERTY OWNER; LEGACY CONSTRUCTION, APPLICANT.

Assistant Planner Lily Cha presented a report on a request to approve a rezone of approximately 4 acres of property located at the southwest corner of Temperance and Nees Avenues to be consistent with the underlying General Plan designation of MU-BC (Mixed Use- Business Campus).

Legacy Construction is requesting to rezone the subject property to the C-P (Professional Office) Zone District for development purposes. Future improvement plans include two large office buildings, with one building dedicated as a medical office facility for a proposed United Health Center facility. Although the request is strictly for zoning consideration, proposed development on the site within the R-T Park warrants discussion on uses and building types. The anticipated project is proposed for development in two phases, with construction of the United Health Center building and associated parking as the first phase of development. The second phase of development will incorporate a future building and associated parking fields.

Anticipated development requires the rezone of the subject property for conformity with the underlying general plan designation of MU-BC (Mixed Use Business Campus). Approval of this rezone will memorialize the C-P Zone District and allow Legacy Construction to move forward with submittal for site plan review. Alondra Williams, representing the applicant, spoke in support of the rezone. Discussion by the Council.

Motion by Councilmember Whalen, seconded by Councilmember Flores, for the council to approve the introduction of Ordinance 20-11, approving a rezone of approximately 4 acres of property located at the southwest corner of Temperance and Nees Avenues to be consistent with the underlying General Plan designation of MU-BC (Mixed Use- Business Campus). (This request is to rezone the subject property from the R-A (Single-Family Residential Very Low Density) Zone District to the C-P (Professional Office) Zone District), with the added condition be placed for this approval that there would be trail improvements required as a condition of approval on the western side of the property, which would be the eastern side of the canal along the property line. Motion carried by unanimous vote.

ADMINISTRATIVE ITEMS

ITEM 18 – 6:54 - CONTINUED - REVIEW AND APPROVAL - RES. 20-XX, 2020-21 CITY OF CLOVIS ANNUAL BUDGET, FIVE YEAR CAPITAL IMPROVEMENT PROGRAM, AND INFORMATION REGARDING THE CLOVIS SUCCESSOR AGENCY

City Manager Luke Serpa presented a report on the City of Clovis Annual Budget, Five year Capital Improvement Program, and information regarding the Clovis Successor Agency. He recommended Council open the public hearing for departmental review and comment, continue the public hearings to June 1, 2020, and adopt the budget resolution no later than June 30, 2020.

The 2020-2021 Annual Budget for general operations and capital improvement programs for the City of Clovis in the amount of \$282.4 million is balanced and is hereby submitted, in accordance with the Clovis Municipal Code.

The 2020-2021 Annual Budget is not a status quo budget. Significant cuts have been implemented in the 2019-2020 fiscal year budget that is being carried forward into this budget. The major challenge in the current budget, and years to come, is focused on the \$76.8M General Fund budget where sales and property taxes make up 67% of the total General Fund revenues. Due to the financial impact of the COVID-19 pandemic statewide stay-at-home order, General Fund forecasted revenues will be less than forecasted expenditures for the fiscal year 2020-2021 budget. This budget forecasts the need to use emergency reserves to balance a proposed structurally imbalanced budget. Staff is forecasting a \$10 million General Fund revenue reduction between March 2020 and June 2021. Staff is also estimating that approximately \$2 million in emergency reserves will be required to balance the fiscal year 2020-2021 budget, and potentially more the following fiscal year. At this point, staff is estimating an ending General Fund balance for June 30, 2020 of \$10.8 million, or 14.7% of the General Fund expenditures. Staff is estimating that reserve amount will drop to approximately 14% by June 30, 2021.

There being no public comment, Mayor Bessinger closed the public portion. Discussion by the Council. Motion by Councilmember Ashbeck, seconded by Councilmember Whalen, for the Council to approve the introduction of the Annual Budget, Five year Capital Improvement Program, and information regarding the Clovis Successor Agency, and continue the public hearing to June 1, 2020. Motion carried by unanimous vote.

ITEM 19 – 7:14 - RECEIVED AND FILED – 2019 FIRE DEPARTMENT ANNUAL REPORT AND COUNCIL PRESENTATION

Fire Chief John Binaski presented the 2019 Fire Department Annual Report. The Annual Report for 2019 is the department’s way of communicating to elected officials, cooperating fire agencies, and most importantly, our community, the quality and quantity of service provided to our citizens in 2019. The report also serves as a record of our activities and accomplishments for future reference and comparison. Chief Binaski provided an overview of all activity in the Fire Department for 2019. There being no public comment, Mayor Bessinger closed the public portion. Discussion by the Council. It was the consensus of Council to receive and file the annual report.

COUNCIL ITEMS

ITEM 20 – 7:44 - WORKSHOP – FOR THE CLOVIS CITY COUNCIL TO CONDUCT A WORKSHOP TO DISCUSS THE IMPACT ON ONGOING CITY OPERATIONS DURING THE COVID-19 STATE OF EMERGENCY AS DECLARED BY THE FEDERAL GOVERNMENT, STATE OF CALIFORNIA, COUNTY OF FRESNO, AND CITY OF CLOVIS; AND TO EXPLORE ACTIONS THE CITY MAY TAKE IN RESPONSE TO THE CRISIS.

A. DISCUSSED - LETTER OF SUPPORT FOR THE FRESNO COUNTY BOARD OF SUPERVISORS LETTER DATED MAY 12, 2020 TO GOVERNOR NEWSOM REGARDING AUTHORIZING FRESNO COUNTY THE DISCRETION TO REOPEN CERTAIN PORTIONS OF THE LOCAL ECONOMY.

City Manager Luke Serpa provided Council an update on the impact on ongoing city operations during the COVID-19 state of emergency. Luke Serpa indicated that the May 12, 2020 letter identified above was somewhat dated as Governor Newsom appears to transferring some authority from the state to the county to allow opening up more businesses if those counties can demonstrate they have a plan for reopening. Luke Serpa also request approval from the Council to draft a letter of support to be signed by the mayor in support of the proposed County of Fresno plan to reopen to be delivered the governor. There being no public comment, Mayor Bessinger closed the public portion. Discussion by the Council. It was the consensus of Council to approve the request to draft a letter of support to be signed by the mayor in support of the proposed County of Fresno plan to reopen to be delivered the governor.

CITY MANAGER COMMENTS – 8:33 None

COUNCIL COMMENTS – 8:35

Councilmember Mouanoutoua requested Chad McCollum provide him an update on the Census and at what percent the City of Clovis was at currently as far as reporting.

Councilmember Flores commented on the high propensity COVID-19 has on Hispanic males over the age of 60.

CLOSED SESSION – 8:35

21. Government Code Section 54956.9(d)(1)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Desiree Martinez, Maria De Jesus Sanchez v. City of Clovis, et al.

22. Government Code Section 54956.9(d)(1)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Name of Case:

Partners 425, LLC (R.L. Davidson Architects), Bear Claw Investments, LLC
(Grizzly Construction), Dan and Joey Properties, LLC (Gateway Engineering)
v. City of Clovis

Mayor Bessinger adjourned the meeting of the Council to June 1, 2020

Meeting adjourned: 9:28 p.m.

Mayor

City Clerk



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Finance Department

DATE: June 1, 2020

SUBJECT: Finance – Approval – Res 20-___ Lease Purchase Agreement with Clayton Holdings LLC for the lease purchase of Fire Safety and Police Vehicles.

ATTACHMENTS: 1. Res. 20-___ Authorization for Lease with Option to Purchase
2. Lease Purchase Agreement

CONFLICT OF INTEREST

None.

RECOMMENDATION

For the Council to approve Res 20-___ and the Lease Purchase Agreement with Clayton Holdings LLC for the lease purchase of Fire Safety and Police Vehicles.

EXECUTIVE SUMMARY

The City Council approved the purchase of a fire truck on January 14, 2019, and the purchase of police vehicles on July 1, 2019. Financing for the vehicles has been arranged through Clayton Holdings LLC. A lease purchase structure has been utilized for the financing due to the attractive interest rate received after requesting bids from several lending institutions, with Clayton Holdings LLC proposing the lowest interest rate. Net proceeds from the lease purchase are \$2,340,000.

BACKGROUND

The City Council approved the purchase of a fire truck on January 14, 2019, and the purchase of police vehicles on July 1, 2019. Both purchases were planned and approved as part of the budget process. Financing for the vehicles has been arranged through Clayton Holdings LLC. A lease purchase structure has been utilized for the financing due to the attractive interest rate received after requesting bids from several lending institutions, with Clayton Holdings LLC proposing the lowest interest rate. Net proceeds from the lease purchase are \$2,340,000. Also, the lease purchase methodology is attractive as it allows the City to maintain its cash reserves and allows for the payment of the safety vehicles over their usable

life. With lease purchase financing the City will own the safety vehicles at the end of the lease purchase agreement for no additional cost.

The police vehicles will be financed over 5 years at a bank qualified rate of 1.58%. The fire truck will be financed over 10 years at a bank qualified rate of 1.78%. This results in a 1.72% blended rate over the 10-year period.

FISCAL IMPACT

The total amount being financed for the vehicles is \$2,340,000. Annual lease payments will be made from the Fleet Fund. The Fire and Police Departments will make payments to the Fleet Fund beginning in the 2020-2021 fiscal year to offset the lease purchase payments.

REASON FOR RECOMMENDATION

The City Council approved the purchase of both the fire truck and the police vehicles with the intent to reimburse the expenditures with proceeds from tax-exempt lease purchase financing. Approval of the resolution and agreement will put the desired financing in place.

ACTIONS FOLLOWING APPROVAL

Following Council's approval, staff will execute the appropriate lease documents.

Prepared by: Jeffrey Blanks, Deputy Finance Director

Reviewed by: City Manager *JH*

RESOLUTION 20-____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS AUTHORIZING
THE EXECUTION AND DELIVERY OF A LEASE WITH OPTION TO PURCHASE, AND
AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH**

WHEREAS, the City of Clovis (the "City") is a municipal corporation organized and existing under and pursuant to the laws of the State of California; and

WHEREAS, the City desires to provide for financing in the approximate amount of \$2,350,000 for the acquisition of a fire safety and police vehicles (the "Property"); and

WHEREAS, the City Council previously adopted Resolution 19-06 and Resolution 19-90 declaring its intent to issue a tax-exempt financing to reimburse the City for prior expenditures on police and fire vehicles; and

WHEREAS, Clayton Holdings, LLC (the "Corporation") has proposed a cost-effective ten year lease purchase financing arrangement at a 1.72% interest rate.

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

SECTION 1. Lease with Option to Purchase. The City Manager or a designee (each, an "Authorized Officer") is hereby authorized to enter into a Lease with Option to Purchase (the "Lease") with the Corporation to finance the Property, subject to approval as to form by the City Attorney.

SECTION 2. Attestations. The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the Authorized Officer as may be required or appropriate in connection with the execution and delivery of the Lease.

SECTION 3. Other Actions. The Authorized Officer and other officers of the City are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all agreements, documents and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution. Such actions are hereby ratified, confirmed and approved.

SECTION 4. Qualified Tax-Exempt Obligations. The Lease is hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The City, together with all subordinate entities of the City, do not reasonably expect to issue during the calendar year in which the Lease is issued more than \$10,000,000 of obligations which it could designate as "qualified tax-exempt obligations" under Section 265(b) of the Code.

SECTION 5. Effect. This Resolution shall take effect immediately upon its passage.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on June 1, 2020 by the following vote, to wit.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DATED: June 1, 2020

Mayor

City Clerk



CLAYTON HOLDINGS, LLC

STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT

Lease Number: 5000298-001

This State and Municipal Lease/Purchase Agreement (the "Lease") is made and entered into on this, the Twenty-First day of May, 2020 by and between Clayton Holdings, LLC with offices at 8000 Forsyth Boulevard, Suite 510, St. Louis, Missouri 63105 (together with its successors and assigns, herein called the "Lessor"), and City of Clovis, California with its principal address at 1033 5th Street, Clovis, California 93612 (together with its permitted successors and assigns, herein called the "Lessee"), wherein it is agreed as follows:

1. **LEASE OF EQUIPMENT:** Lessee hereby requests Lessor to acquire the equipment described in Schedule A attached hereto and made a part hereof. Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Schedule A, with all replacements, repairs, additions and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").
2. **DELIVERY AND ACCEPTANCE:** Lessee agrees to order the Equipment on behalf of Lessor from the supplier of such Equipment. Lessor will not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order. Lessee will cause the Equipment to be delivered at the location specified in Schedule A (the "Equipment Location"). Lessee is solely responsible for the selection of the Equipment and the vendor from which the Equipment is purchased. Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery will not affect the validity of this Lease. To the extent funds are deposited with a bank or trust company in an escrow fund for the acquisition of the Equipment, such funds shall be disbursed as provided in the agreement pursuant to which such fund is established (the "Escrow Agreement"). Lessee will immediately accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor pre-acceptance test period has expired. In the event the Equipment is not accepted by Lessee within thirty (30) days from the date of its delivery, Lessor, at Lessor's sole option, will have the right to terminate this Lease. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a delivery and acceptance certificate in the form of Exhibit B or C, as applicable, to the Escrow Agreement (the "Acceptance Certificate"). Lessee hereby authorizes the Lessor to add to this Lease and to any other description of the Equipment the serial number of each item of Equipment, when available.
3. **TERM:** This Lease will become effective upon the execution hereof by Lessee and Lessor. Lessee's obligation to pay rent under this Lease will commence on the date that funds are advanced by Lessor to pay the vendor of the Equipment or are deposited with a bank or trust company in an escrow fund pursuant to the Escrow Agreement, if any (the "Start Date"), and will extend for an initial term through the end of Lessee's fiscal year containing the Start Date. The term of this Lease is subject to renewal on a year-to-year basis for the number of annual fiscal periods necessary to comprise the lease term as set forth in Schedule C attached hereto and made a part hereof (the "Lease Term"). At the end of the initial term and any renewal term, Lessee will be deemed to have exercised its option to renew this Lease for the next annual renewal term, unless Lessee has exercised its right to terminate the Lease pursuant to Section 8 below.
4. **RENT:** Lessee agrees to pay Lessor the rental payments for the Equipment as set forth in Schedule C (the "Rental Payments"). A portion of each Rental Payment is paid as and represents the payment of interest as set forth in Schedule C. The Rental Payments will be payable without notice or demand, at the office of Lessor (or such other place as Lessor may designate in writing, from time to time) and will commence on the Start Date. For clarity, Lessee hereby authorizes Lessor to update Schedule C with the Start Date and actual due dates for Rental Payments based upon the frequency of payments stated on Schedule C. Any notice, invoicing, purchase orders, quotations or other forms or procedures requested by Lessee in connection with payment will be fully explained and provided to Lessor sufficiently in advance of the payment due date for the completion thereof by Lessor prior to such payment date, but none of the foregoing will be a condition to Lessee's obligation to make any such payment. If Lessee fails to pay any Rental Payment or any other sums under this Lease within ten (10) days when the same becomes due, Lessee shall pay to Lessor (in addition to and not in lieu of other rights of Lessor) a late charge equal to the greater of five (5%) percent of such delinquent amount or Twenty-Five Dollars (\$25.00), but in any event not more than the maximum amount permitted by law. Such late charge shall be payable by Lessee upon demand by Lessor and shall be deemed rent hereunder. Lessee acknowledges and agrees that the late charge (i) does not constitute interest, (ii) is an estimate of the costs Lessor will incur as a result of the late payment and (iii) is reasonable in amount. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee and will not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee. **EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 HEREOF, LESSEE'S OBLIGATION TO MAKE RENTAL PAYMENTS SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND WILL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.**

Notwithstanding the foregoing, the interest portion of the Rental Payments on Schedule C will be adjusted, and Lessor will provide Lessee a revised Schedule C reflecting such adjustment in the event that it is determined that any of the interest portions of Rental Payments set forth in Schedule C may not be excluded from Lessor's gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Lessee agrees that the interest portion of the Rental Payments on Schedule C will be adjusted commencing with the first day of the next succeeding fiscal year of the Lessee, but only if this Lease is renewed for such fiscal year, and thereafter, so that Lessor will be in the same after-tax position that it would have been in had such payment been excluded from the gross income of Lessor under Section 103 of the Code.

5. **AUTHORITY AND AUTHORIZATION:** Lessee represents, warrants and covenants that (a) it will do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) subject to Section 8 hereof, this Lease; (b) it has complied with all bidding and budgeting requirements where necessary and by due notification has presented this Lease to Lessee's governing body for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure the enforceability of this

Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt, revenue or purchase obligation which it has issued or to which it is a party (the "Obligation") nor has it been in default under any Obligation at any time during the past five (5) years, and (e) no lease, rental agreement or contract for purchase, to which Lessee has been a party, at any time during the past five (5) years, has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal period.

- 6. REPRESENTATIONS, COVENANTS AND WARRANTIES REGARDING TAX-EXEMPT STATUS:** Lessee warrants and covenants that (i) it is a state, or a political subdivision thereof, within the meaning of Section 103 of the Code, and the related regulations and rulings thereunder; (ii) subject to Section 8 hereof, Lessee intends that its obligation under this Lease will constitute an enforceable obligation issued by or on behalf of a state, or political subdivision thereof, such that the interest portions of Rental Payments as shown in Schedule C, will not be includable in the gross income of Lessor for the purposes of federal income taxation; (iii) this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, city or town statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment will not be used in a trade or business of any other person or entity; (vi) Lessee will complete and file on a timely basis, Internal Revenue Service form 8038G or 8038GC, as appropriate, in the manner set forth in Section 149(e) of the Code; and (vii) Lessee will not take any action or permit the omission of any action reasonably within its control which action or omission will cause the interest portion of any Rental Payment hereunder to be includable in gross income for federal income taxation purposes.

Lessee hereby designates the Lease as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. The aggregate face amount of all tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the calendar year in which the Start Date occurs is not reasonably expected to exceed \$10,000,000. Lessee and all subordinate entities thereof will not issue in excess of \$10,000,000 of tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year in which the Start Date occurs, without first providing Lessor with an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor, that the designation of the Lease as a "qualified tax-exempt obligation" will not be adversely affected.

Lessee further represents as follows:

- (a) The estimated total costs of the Equipment will not be less than the total principal amount of the Rental Payments.
 - (b) The Equipment has been ordered or is expected to be ordered within six months of the effective date of this Lease, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within eighteen months of the effective date of this Lease.
 - (c) 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 Rental Payments, or (ii) that may be used solely to prevent a default in the payment of Rental Payments.
 - (d) The Equipment 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 final Rental Payment.
 - (e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.
- 7. APPROPRIATIONS AND ESSENTIAL USE:** Lessee reasonably believes that sufficient funds can be obtained to make all Rental Payments during the Lease Term. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain funds from which the Rental Payments, including any Rental Payments required by Section 4 hereof, may be made, including making provisions for such payments, to the extent necessary, in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Lease for any subsequent annual fiscal period is solely within the discretion of the then current governing body of Lessee. Lessee currently intends to make the Rental Payments for the full Lease Term if funds are legally available therefor, and in that regard Lessee represents that (a) the use of the Equipment is essential to its proper, efficient, and economic functioning or to the services that it provides to its citizens; (b) Lessee has an immediate need for and expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and (c) the Equipment will be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority.
- 8. NONAPPROPRIATION OF FUNDS:** In the event insufficient funds are appropriated and budgeted to pay Rental Payments required by Section 4 hereof and any other amounts payable under this Lease, for any fiscal period in which the Rental Payments for the Equipment are due under this Lease, then, without penalty, liability or expense to Lessee, this Lease will thereafter terminate on the last day of the fiscal period for which appropriations were made, except as to (i) the portions of the Rental Payments herein agreed upon for which funds have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. Lessee will, not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor of such occurrence, but failure to give such notice will not prevent such termination. In the event of such termination, Lessee agrees to immediately cease use of the Equipment and peaceably surrender possession of the Equipment to Lessor on the day of such termination, packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance, and freight prepaid and insured to any location in the continental United States designated by Lessor, all at Lessee's expense. Lessor may exercise all available legal and equitable rights and remedies in retaking possession of the Equipment. If Lessee fails to cease use and deliver possession of the Equipment to Lessor upon termination of this Lease under this section, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to (a) the portion of Rental Payments thereafter coming due that is attributable to the number of days after the termination during which Lessee fails to cease use and deliver possession of the Equipment and (b) any other loss suffered by Lessor as a result of Lessee's failure to deliver possession of the Equipment.
- 9. EXCLUSION OF WARRANTIES; LIMITATIONS OF LIABILITY; DISCLAIMER OF CONSEQUENTIAL DAMAGES: LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE VENDOR(S) FROM WHOM LESSOR IS TO PURCHASE THE EQUIPMENT IN RELIANCE HEREON. LESSEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSOR IS NOT A MANUFACTURER, VENDOR, DISTRIBUTOR OR LICENSOR OF SUCH EQUIPMENT, AND THAT LESSOR LEASES THE**

EQUIPMENT AS IS AND HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO INCLUDING ANY WARRANTIES OF TITLE OR AGAINST INFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR PRACTICE, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED BY LESSOR AND IN NO EVENT SHALL LESSOR BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE SALE, LEASE, USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT, INCLUDING INTERRUPTION OF SERVICE, LOSS OF DATA, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, EVEN IF ANY SUCH PERSON IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS LEASE.

Lessee acknowledges that neither the original vendor nor licensor of the Equipment (including the salespersons of any of them) is an agent of Lessor, nor are they authorized to waive or alter any terms of this Lease. Lessee hereby waives any claim (including any claim based on strict or absolute liability in tort) it might have against Lessor or any assignee of the Lessor for any loss, damage or expense caused by or with respect to the Equipment. Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law and so long as no Event of Default has occurred pursuant to Section 20 below, all manufacturer's warranties, if any, that it may have with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenances, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, will be made against the manufacturer. Lessor, at its option, may provide in its purchase order that the manufacturer agrees that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 will not be abated, impaired or reduced by reason of any claims of Lessee with respect to the Equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

10. **TITLE, SECURITY INTEREST:** During the Lease Term, title to the Equipment is deemed to be in Lessee so long as no Event of Default pursuant to Section 20 below has occurred and/or this Lease has not been terminated pursuant to the provisions of Section 8 above, subject to a first priority security interest in the Equipment which is retained by Lessor. Upon the earlier of (i) termination of this Lease in accordance with Section 8 above or (ii) the occurrence of an Event of Default by Lessee pursuant to Section 20 below, title will immediately revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise. In order to secure all of Lessee's obligations hereunder, Lessee hereby (a) to the extent permitted by law, grants to Lessor a first and prior security interest in any and all rights, titles and interest of Lessee in this Lease, the Equipment and in all additions, attachments, accessions, accessories, replacements and improvements thereto, now or hereafter acquired, together with all rents, issues, income, profits and proceeds thereof, including insurance proceeds; (b) agrees that financing statements evidencing Lessor's security interest may be filed; and (c) agrees to execute and deliver all certificates of title and other instruments necessary or appropriate to evidence and perfect such security interest. As further security therefor, Lessee grants to Lessor a first priority security interest in the cash and negotiable instrument from time to time comprising the escrow fund, if any, established under the Escrow Agreement and all proceeds (cash and non-cash) thereof, and agrees with respect thereto that Lessor shall have all the rights and remedies of a secured party.
11. **PERSONAL PROPERTY:** Lessor and Lessee agree that the Equipment is, and will remain, personal property and will not be deemed to be affixed or attached to real property or any building thereon. Notwithstanding the foregoing, for purposes of providing notice to third parties, Lessee agrees that, upon Lessor's request, it will provide the legal description of all real property where any of the Equipment is or will be installed, and Lessee agrees that financing statements evidencing Lessor's security interest may be filed in the real property records. If requested by Lessor, Lessee will, at Lessee's expense, furnish to Lessor landlord or mortgagee waiver with respect to the Equipment.
12. **USE; REPAIRS:** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and will comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its sole costs and expense, will maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and will furnish proof of such maintenance, if requested by Lessor and will furnish all needed servicing and parts, which parts will become part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement with a party satisfactory to Lessor.
13. **ALTERATIONS:** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value will become part of the Equipment.
14. **LOCATION; INSPECTION:** The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from the Equipment Location without Lessor's prior written consent, which consent will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operations.
15. **LIENS AND TAXES:** Lessee will keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee will pay, when due, all charges and taxes (federal, state and local) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor will have the right, but will not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Lease, Lessee will, upon demand, reimburse Lessor therefor.
16. **RISK OF LOSS; DAMAGE; DESTRUCTION:** Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment will relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair (the proceeds of any insurance recovery will be applied to the cost of such repair). If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, will (a) replace the same with like equipment in good repair; or (b) on the next Rental Payment date pay to Lessor (i) all amounts owed by Lessee under this Lease, including the Rental Payment due on such date, and (ii) an amount not less than the balance of the Rental Payments then remaining unpaid hereunder. In the event that Lessee is obligated to make such payment with respect to less

than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Rental Payment and the balance of the Rental Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.

- 17. INSURANCE:** Lessee will, at its expense, maintain at all times during the Lease Term (a) fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as will be satisfactory to Lessor. In no event will the insurance limits be less than the greater of (i) an amount equal to the balance of the Rental Payments then remaining for the Lease Term or (ii) any minimum required by any co-insurance provisions of such insurance, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the state in which Lessee is located. Each insurance policy required by clause (b) of the preceding sentence will name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, as appropriate, and each insurance policy required by the preceding sentence will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns, as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice hereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.
- 18. ADVANCES:** In the event Lessee fails to maintain the insurance required by this Lease or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the premiums on the same and make such repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent payable by Lessee. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 1.5% per month or the maximum permitted by law, whichever is less. Unless Lessee provides evidence of the insurance coverage required by this Lease, Lessor may purchase insurance at Lessee's expense to protect Lessor's interests hereunder. This insurance may, but need not, protect Lessee's interests. The coverage that Lessor may purchase may not pay any claim that Lessee may make or any claim that may be made against Lessee in connection with the Equipment. Lessee may later cancel any insurance purchased by Lessor, but only after providing evidence that Lessee has obtained insurance as required by this Lease. If Lessor purchases insurance for the Equipment, Lessee will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges Lessor may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as additional rent. The costs of the insurance may be more than the cost of insurance Lessee may be able to obtain on its own.
- 19. INDEMNIFICATION:** To the extent permitted by law, and solely from legally available funds, Lessee agrees to indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.
- 20. EVENTS OF DEFAULT:** The Term "Event of Default" as used in this Lease, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Rental Payment (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for ten (10) days after the date thereof; (b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws, is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee suffers an adverse material change in its financial condition or operations from the date hereof and, as a result, Lessor deems itself insecure; or (f) Lessee is in default under any other agreement executed at any time with Lessor or its affiliates, or under any other agreement or instrument by which it is bound.
- 21. REMEDIES:** Upon the occurrence of an Event of Default, Lessor shall have the right, at its sole option, to exercise any one or more of the following remedies: (a) by written notice to Lessee, declare an amount equal to all amounts then due under this Lease and all remaining Rental Payments which will become due during the then current fiscal year of Lessee to be immediately due and payable, whereupon the same will become immediately due and payable and such amounts shall thereafter bear interest at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly cease use and return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option and with or without terminating the Lease Term, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same, without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for (i) all Rental Payments and other payments due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the net purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the remaining amounts payable by the Lessee through the end of the then current fiscal year of Lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease as to any or all of the Equipment. If Lessee fails to cease use and deliver possession of the Equipment upon the occurrence of an Event of Default, Lessee shall be responsible for the payment of damages in an amount equal to (a) the portion of Rental Payments that is attributable to the number of days after the termination during which Lessee fails to cease use and deliver possession of the Equipment and (b) any other loss suffered by Lessor as a result of Lessee's failure to cease use and deliver possession of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

- 22. EARLY PURCHASE OPTION; PREPAYMENT:** Lessee may, upon sixty (60) days prior written notice to Lessor, and provided Lessee has fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, pay to Lessor on any regularly scheduled Rental Payment date the applicable amount set forth on Schedule C attached hereto, whereupon title to the Equipment will become

unconditionally vested in Lessee, and Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment is free and clear of any liens created by Lessor.

Upon delivery by Lessee of a final acceptance certificate, any remaining monies in any escrow fund established under the Escrow Agreement shall be paid to Lessor, for credit, first, to the next Rental Payment due, and, second, to the prepayment of the principal portion of future Rental Payments hereunder in the manner directed by Lessor, in its sole discretion, unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest portions of Rental Payments from gross income for federal income tax purposes. If any amount is applied against the outstanding principal components of Rental Payments, Schedule C attached hereto will be revised accordingly.

23. DETERMINATION OF FAIR PURCHASE PRICE: Lessee and Lessor hereby agree and determine that the Rental Payments payable during the Lease Term represent the fair value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to Section 22 represents the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Lease or to exercise its option to purchase the Equipment. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Lease, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that this Lease will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Lease. Lessee hereby determines and declares that the Lease Term does not exceed the useful life of the Equipment.

24. ASSIGNMENT: Except as expressly provided herein, Lessee will not (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Lease or the Equipment or any interest in this Lease or the Equipment or (b) sublet or lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee's employees, unless Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor that such action will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income for federal income tax purposes.

Lessor, without the consent of Lessee, may assign all or any portion or portions of its right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part to various assignees, their agents or trustees (each and any one hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide that the Lessor or the Assignee will act as a collection and paying agent for owners of certificates of participation in this Lease, or may provide that a third-party trustee or agent will act as collection and paying agent for any Assignee, provided that any such trustee or agent will maintain registration books as a register of all persons who are owners of certificates of participation or other interest in Rental Payments and Lessee receives written notification of the name and address of the trustee or agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee will have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease will inure to the benefit of and will be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor's right, title or interest in this Lease or the Equipment will be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such Assignee and, where applicable, to whom further payments hereunder should be made. During the Lease Term, Lessee covenants that it will keep a complete and accurate record of all assignments in form necessary to comply with Section 149(a) of the Code and the regulations, proposed or existing, from time to time promulgated thereunder. Lessee agrees to acknowledge in writing any assignments if so required.

Lessee agrees that, upon notice of assignment, if so instructed it will pay directly to the Assignee, or its trustee or agent without abatement, deduction or setoff all amounts which become due hereunder. Lessee further agrees that it will not assert against any Assignee, or its trustee or agent, any defense, claim, counterclaim or setoff Lessee may have against Lessor.

25. FINANCIAL STATEMENTS: Each year during the term of this Lease, Lessee hereby agrees to deliver to Lessor a copy of: (i) annual audited financial statements within one hundred twenty (120) days of Lessee's fiscal year-end; and (ii) within a reasonable period of time, any other financial information Lessor requests from time to time.

26. NATURE OF AGREEMENT: Lessor and Lessee agree that upon the due and punctual payment and performance of the installments of Rental Payments and other amounts and obligations under this Lease, title to the Equipment will vest permanently in Lessee as provided in this Lease, free and clear of any interest, lien or security of Lessor therein.

27. AMENDMENTS: This Lease may be amended or any of its terms modified in any manner by written agreement of Lessee and Lessor. Any waiver of any provision of this Lease or of any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

28. NOTICES: All notices to be given under this Lease must be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice is effective upon receipt.

29. SECTION HEADINGS: All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

30. GOVERNING LAW: This Lease will be governed by the provisions hereof and by the laws of the State where Lessee is located.

31. FURTHER ASSURANCES: Lessee will deliver to Lessor (i) an opinion of counsel in substantially the form of Schedule D attached hereto or as Lessor may otherwise request; and (ii) if applicable, a certificate of a duly authorized official as to designation as a qualified tax-exempt obligation. Moreover, Lessee will execute or provide, as requested by Lessor, any documents and information that are reasonably necessary with respect to the transaction contemplated by this Lease.

- 32. **ENTIRE AGREEMENT:** This Lease, together with the Schedules attached hereto and made a part hereof and other attachments hereto and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease will not be modified, amended, altered or changed except with the written consent of Lessee or Lessor.
- 33. **SEVERABILITY:** Any provision of this Lease found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.
- 34. **WAIVER:** The waiver by Lessor of any breach by Lessee of any term, covenant or condition, hereof will not operate as a waiver of any subsequent breach hereof.
- 35. **ELECTRONIC TRANSACTIONS.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.
- 36. **ROLE OF LESSOR:** Lessor has not acted and will not act as a fiduciary for Lessee or as Lessee's agent or municipal advisor. Lessor has not and will not provide financial, legal, tax, accounting or other advice to Lessee or to any financial advisor or placement agent engaged by Lessee with respect to this Lease. Lessee, its financial advisor, placement agent or municipal advisor, if any, shall each seek and obtain its own financial, legal, tax, accounting and other advice with respect to this Lease from its own advisors (including as it relates to structure, timing, terms and similar matters).

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT, ARE NOT ENFORCEABLE. TO PROTECT YOU (LESSEE(S)) AND US (LESSOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

BY SIGNING BELOW, YOU AND WE AGREE THAT THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN US.

<p><i>Lessor: Clayton Holdings, LLC</i></p> <p><i>Authorized Signature:</i></p> <p>_____</p> <p><i>Printed Name:</i> _____</p> <p><i>Title:</i> _____</p> <p><i>Date:</i> _____</p>	<p><i>Lessee: City of Clovis, California</i></p> <p><i>Authorized Signature:</i></p> <p>_____</p> <p><i>Printed Name: Luke Serpa</i></p> <p><i>Title: City Manager</i></p> <p><i>Date:</i> _____</p> <p><i>EIN: 94-6000311</i></p>
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**SCHEDULE A TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000298-001**

Location of Equipment		
Street: 633 Pollasky Avenue City: Clovis State: CA Zip Code: 93612		
Description of Equipment Pierce International FX3 Type 3 engine with related equipment VIN: _____		Equipment Cost \$1,301,895.80
Location of Equipment		
Street: 1233 5 th Street City: Clovis State: CA Zip Code: 93612		
Description of Equipment	VIN	Equipment Cost
2019 Dodge Charger with related equipment	2C3CDXKTXKH736884	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKTXKH736304	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT3KH733082	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT1KH736885	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT8KH736303	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT1KH743030	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT4KH736301	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT8KH736883	\$46,939.64
2019 Dodge Charger with related equipment	2C3CDXKT1KH733081	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT1KH733078	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT5KH743032	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT3KH743031	\$46,831.67
2019 Dodge Charger with related equipment	2C3CDXKT7KH743033	\$46,831.66
2019 Dodge Charger with related equipment	2C3CDXKT6KH736302	\$46,831.66
2019 Dodge Charger with related equipment	2C3CDXKT3KH733079	\$46,831.66
2019 Dodge Charger with related equipment	2C3CDXKTXKH733080	\$46,831.66
2020 Dodge Durango with related equipment	1C4SDJFT9LC162779	\$57,737.91
2020 Dodge Durango with related equipment	1C4SDJFT0LC155560	\$57,737.91
2020 Dodge Durango with related equipment	1C4SDJFT2LC155561	\$57,737.91
2020 Dodge Durango with related equipment	1C4SDJFT3LC166486	\$57,737.91
2020 Dodge Durango with related equipment	1C4SDJFT5LC166487	\$57,737.91
Total		\$2,340,000.00

Lessee hereby certifies that the description of the property set forth above constitutes a complete and accurate description of all Equipment as subject to in the Lease.

Lessee: City of Clovis, California

Authorized Signature: _____

Printed Name: Luke Serpa

Title: City Manager

Date: _____

**SCHEDULE B TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000298-001
DELIVERY AND ACCEPTANCE CERTIFICATE**

See Exhibits B and C to the Escrow Agreement.

SCHEDULE C PAYMENT SCHEDULE

Lessee: City of Clovis, California
 Lessor: Clayton Holdings, LLC
 Lease Number: 5000298-001
 Capital Cost of Equipment (Principal Portion of Rental Payments): \$2,340,000.00
 Start Date: June 5, 2020

Subject to Section 8 of the Lease, Rental Payments are due on the dates and in the amounts shown below:

Rental Payment Date	Payment Amount	Amount Credited to Interest	Amount Credited to Capital Cost	Outstanding Principal Balance
12/5/2020	\$ 179,816.73	\$ 20,128.82	\$ 159,687.91	\$ 2,180,312.09
6/5/2021	\$ 179,816.73	\$ 18,755.17	\$ 161,061.56	\$ 2,019,250.53
12/5/2021	\$ 179,816.73	\$ 17,369.71	\$ 162,447.02	\$ 1,856,803.51
6/5/2022	\$ 179,816.73	\$ 15,972.33	\$ 163,844.40	\$ 1,692,959.11
12/5/2022	\$ 179,816.73	\$ 14,562.94	\$ 165,253.79	\$ 1,527,705.32
6/5/2023	\$ 179,816.73	\$ 13,141.41	\$ 166,675.32	\$ 1,361,030.00
12/5/2023	\$ 179,816.73	\$ 11,707.66	\$ 168,109.07	\$ 1,192,920.93
6/5/2024	\$ 179,816.73	\$ 10,261.58	\$ 169,555.15	\$ 1,023,365.78
12/5/2024	\$ 179,816.73	\$ 8,803.05	\$ 171,013.68	\$ 852,352.10
6/5/2025	\$ 179,816.73	\$ 7,331.98	\$ 172,484.75	\$ 679,867.35
12/5/2025	\$ 71,244.60	\$ 5,848.26	\$ 65,396.34	\$ 614,471.01
6/5/2026	\$ 71,244.60	\$ 5,285.72	\$ 65,958.88	\$ 548,512.13
12/5/2026	\$ 71,244.60	\$ 4,718.33	\$ 66,526.27	\$ 481,985.86
6/5/2027	\$ 71,244.60	\$ 4,146.07	\$ 67,098.53	\$ 414,887.33
12/5/2027	\$ 71,244.60	\$ 3,568.89	\$ 67,675.71	\$ 347,211.62
6/5/2028	\$ 71,244.60	\$ 2,986.74	\$ 68,257.86	\$ 278,953.76
12/5/2028	\$ 71,244.60	\$ 2,399.58	\$ 68,845.02	\$ 210,108.74
6/5/2029	\$ 71,244.60	\$ 1,807.37	\$ 69,437.23	\$ 140,671.51
12/5/2029	\$ 71,244.60	\$ 1,210.06	\$ 70,034.54	\$ 70,636.97
6/5/2030	\$ 71,244.60	\$ 607.63	\$ 70,636.97	\$ -
TOTALS	\$ 2,510,613.30	\$ 170,613.30	\$ 2,340,000.00	

In the event Lessee desires to prepay this Lease, it may do so in whole, but not in part, at a purchase price equal to (a) the then current outstanding principal balance shown above; plus (b) a prepayment premium calculated as a percentage of the then current outstanding principal balance, in the following amount: 3%, with respect to any prepayment during the first full year of the Lease Term; 2%, with respect to any prepayment during the second full year of the Lease Term; and 1%, with respect to any prepayment during the third full year of the Lease Term and thereafter; plus (c) unpaid interest accrued on the outstanding principal balance to the prepayment date; and plus (d) all other amounts then payable under this Lease. There is no prepayment penalty if Lessee is using funds other than proceeds of a grant or an actual or anticipated refinancing.

Lessee: City of Clovis, California

Authorized Signature: _____

Printed Name: Luke Serpa

Title: City Manager

Date: _____

**SCHEDULE D TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
OPINION OF COUNSEL
(To be on Letterhead of Lessee's Counsel)**

Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, Missouri 63105

Re: State and Municipal Lease/Purchase Agreement No. 5000298-001 dated the Twenty-First day of May, 2020 (the "Lease"), between Clayton Holdings, LLC ("Lessor") and City of Clovis, California ("Lessee").

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) an executed counterpart of the Lease, which, among other things, provides for the sale to and purchase by the Lessee of the Equipment, (b) an executed counterpart of the Escrow Agreement, dated as of May 21, 2020 (the "Escrow Agreement"), among Lessor, Lessee and UMB Bank, N.A., (c) an executed counterpart of the ordinance, order or resolution of Lessee which, among other things, authorizes Lessee to execute the Lease and (d) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

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) police power.

2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Lease and the Escrow Agreement and to perform its obligations under the Lease, and the Escrow Agreement and the execution, delivery and compliance with the provisions of the Lease and the Escrow Agreement will not conflict with or result in the breach of any of the provisions of, or constitute a default under any indenture or other agreement or instrument to which Lessee is a party, or by which it or its property is bound.

3. The Lease, the Escrow Agreement and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Lease is a valid and binding obligation of Lessee enforceable in accordance with its terms.

4. The authorization, approval and execution of the Lease, the Escrow Agreement and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Lease, the Escrow Agreement or the security interest of Lessor or its assigns, as the case may be, in the Equipment.

Furthermore, I confirm that the name of the Lessee as stated in the Lease, as **City of Clovis, California**, is the exact legal name of the Lessee for all purposes contemplated herein.

All capitalized terms herein shall have the same meanings as in the Lease. Lessor, its successors and assigns and any counsel rendering an opinion on the tax-exempt status of the interest portions of Rental Payments are entitled to rely on this opinion.

Very truly yours,

**SCHEDULE E-1 TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000298-001**

WHEREAS, City of Clovis, California (the "Lessee") is a political subdivision duly organized under the constitution and laws of the State where Lessee is located;

WHEREAS, it is necessary and desirable and in the best interest of the Lessee, as lessee, to enter into a State & Municipal Lease/Purchase Agreement (the "Lease") with Clayton Holdings, LLC, as lessor (the "Lessor"), for the purposes described therein, including the leasing of the Equipment; and

WHEREAS, the Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the current fiscal year and to meet its other obligations, and such funds have not been expended for other purposes

NOW, THEREFORE, BE IT RESOLVED, BY THE GOVERNING BODY OF CITY OF CLOVIS, CALIFORNIA, AS FOLLOWS:

Section 1. The Lease and the Escrow Agreement, in substantially the same form as presented to this meeting, and the terms and performance thereof are hereby approved, and the City Manager of the Lessee is hereby authorized to execute and deliver the Lease and the Escrow Agreement, on behalf of the Lessee, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease and the Escrow Agreement.

Section 3. Lessee hereby designates the Lease as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Internal Revenue Code. The aggregate face amount of all tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the current calendar year is not reasonably expected to exceed \$10,000,000. Lessee and all subordinate entities thereof will not issue in excess of \$10,000,000 of tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the current calendar year without first providing Lessor with an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor, that the designation of the Lease as a "qualified tax-exempt obligation" will not be adversely affected.

Section 4. Moneys sufficient to pay all Rental Payments required to be paid under the Lease during Lessee's current fiscal year are hereby appropriated to such payment, and such moneys will be applied in payment of all Rental Payments due and payable during the current fiscal year.

Section 5. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the Lessee.

PASSED AND ADOPTED by the governing body of City of Clovis, California this ____ day of _____, 20__.

ATTEST:	City of Clovis, California
By: _____	By: _____
Printed Name: _____	Printed Name: <u>Luke Serpa</u>
Title: _____	Title: <u>City Manager</u>

**SCHEDULE E-2 TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000298-001**

INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, a duly elected or appointed and acting _____ of City of Clovis, California ("Lessee") certifies as follows:

A. **Authorized Signers.** The following listed persons are duly elected or appointed and acting officials of Lessee (the "Officials") in the capacity set forth opposite their respective names below, and the signature of each such Official appearing below is the true and genuine signature of that Official. By order of Lessee's governing body, the Officials identified below have been duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Equipment Lease/Purchase Agreement dated as of May 21, 2020, by and between Lessee and Clayton Holdings, LLC ("Lessor"), the Escrow Agreement dated as of May 21, 2020 among Lessor, Lessee and UMB Bank, N.A., as Escrow Agent (the "Escrow Agreement"), and all documents related thereto and delivered in connection therewith (collectively, the "Agreements").

Name of Official	Title	Signature
Luke Serpa	City Manager	
Jay Schengel	Finance Director	
Jeffrey Blanks	Deputy Finance Director	

B. **Call-Back Verification.** Lessor may, but is not required, to call back any one of the below-named employees or officials of Lessee prior to approving the disbursement of any funds from the Acquisition Fund established under the Escrow Agreement to verify the request for disbursement, including but not limited to amount, payee, address, ABA and account numbers of the payee or Lessee.

Name	Title	Phone Number
Luke Serpa	City Manager	
Jay Schengel	Finance Director	
Jeffrey Blanks	Deputy Finance Director	

Dated: _____

By: _____

Name: _____

Title: _____

(The signer of this Certificate cannot be listed under Paragraph A above as authorized to execute the Agreements.)

**SCHEDULE F
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000298-001**

ESSENTIAL USE/SOURCE OF FUNDS LETTER

May 21, 2020

Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, Missouri 63105

Re: State and Municipal Lease/Purchase Agreement No. 5000298-001, dated the Twenty-First day of May, 2020 (the "Lease"), between Clayton Holdings, LLC ("Lessor") and City of Clovis, California ("Lessee")

Ladies and Gentlemen:

This confirms and affirms that the Equipment described in the Lease is essential to the function of the undersigned or to the service we provide to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, such Equipment was selected by us to be used as follows:

The estimated useful life of such Equipment based upon manufacturer's representations and our projected needs is not less than the maximum Lease Term.

Our source of funds for payments of the Rental Payments due under the Lease for the current fiscal year is

We currently expect and anticipate adequate funds to be available for all future payments of rent due after the current fiscal year for the following reasons:

Very truly yours,

<p>Lessee: <u>City of Clovis, California</u></p> <p>Authorized Signature: _____</p> <p>Printed Name: <u>Luke Serpa</u></p> <p>Title: <u>City Manager</u></p> <p>Date: _____</p>

SCHEDULE G PROOF OF INSURANCE

Insurance Agent Name: _____

Agency Name: _____

Address: _____

Phone Number: _____

E-Mail: _____

Ladies and Gentlemen:

Please add CLAYTON HOLDINGS, LLC as both co-loss payee and additional insured under the property insurance covering the Equipment listed on attached Schedule A, and as additional insured under the general liability insurance policy. The minimum liability coverage is \$1,000,000.00. Please mail or fax an insurance certificate to:

Clayton Holdings, LLC
P.O. Box 11309
St. Louis, MO 63105
Fax # 314-746-3744

Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance.

Please note that the Bank requires 30 day written notice of cancellation of the policy covering leased equipment.

Lessee: City of Clovis, California

Authorized Signature: _____

Printed Name: Luke Serpa

Title: City Manager

Date: _____



SCHEDULE H

ACH Payment Authorization Form

Lease No. / Loan No: 5000298-001

Lessee / Borrower: City of Clovis, California

I authorize Commerce Bank (“Commerce”) to initiate debit entries and to initiate, if necessary, credit entries and adjustments for any debit entries in error on behalf of CBI Equipment Finance, Clayton Holdings or Commerce Bank as lender or lessor in the amount shown, and from the checking or savings account with the depository institution (“Bank”) named below, on the payment due date.

Bank Name: _____

Address: _____

ABA Routing No.: _____

Account No.: _____ (X) Checking () Savings

This is a (X) New or () Updated authorization form.

Semi-Annual Debit Amount(s): In Accordance with Schedule C

Begin Auto Debit with Invoice Date Due: In Accordance with Schedule C

The final or balloon payment, if different from the Semi-Annual payment, will not be auto debited.

I understand that this authorization will remain in full force and effect until I notify COMMERCE BANK at the address or phone number below that I wish to revoke this authorization. I understand that COMMERCE BANK requires at least 5 days prior notice in order to process any such cancellation.

X _____ X _____

Borrower / Lessee Signature

Date

Note that there is NO charge for this service.

Also, your “Bank” need not be Commerce Bank to benefit from this feature. Any bank account can be auto debited. To commence service please return this form with your document package or **send this signed form and a voided check (unless COMMERCE BANK is already currently debiting this same account for another lease schedule) to:**

COMMERCE BANK
P.O. Box 11309
Clayton, MO 63105 or
LeasingACH@Commercebank.com

To discontinue or amend service, please email the request to the address above or call COMMERCE BANK at 314.746.3726.

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated as of the Twenty-First day of May, 2020 and entered into among **Clayton Holdings, LLC**, a Missouri Limited Liability Company (together with its successors and assigns, "Lessor"), **City of Clovis, California** a municipal corporation and political subdivision existing under the laws of California ("Lessee"), and **UMB Bank, N.A.**, a national banking association, as escrow agent (together with its successors and assigns, the "Escrow Agent").

Name of Acquisition Fund: "City of Clovis, California SCH 001"

Amount of Deposit into the Acquisition Fund: \$2,340,000.00

TERMS AND CONDITIONS

1. This Escrow Agreement relates to the State and Municipal Lease/Purchase Agreement dated as of the Twenty-First day of May, 2020, (the "Lease"), between Lessor and Lessee.

2. Lessor, Lessee and the Escrow Agent agree that the Escrow Agent will act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement. The Escrow Agent shall not be deemed to be a party to the Lease, and this Escrow Agreement shall be deemed to constitute the entire agreement between Lessor and Lessee and the Escrow Agent.

3. There is hereby established in the custody of the Escrow Agent a special trust fund designated as set forth above (the "Acquisition Fund") to be held and administered by the Escrow Agent in trust for the benefit of Lessor and Lessee in accordance with this Escrow Agreement.

4. Lessor shall deposit in the Acquisition Fund the amount specified above. Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon written order of an authorized Lessee representative, in accordance with the Arbitrage Instructions attached as **Exhibit A**, in Qualified Investments (as defined below) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. If an Authorized Lessee Representative fails to timely direct the investment of any moneys held hereunder, the Escrow Agent shall invest and reinvest such moneys in Goldman Sachs Government #465, which is a Qualified Investment described in 5(vi) below. Such investments shall be held by the Escrow Agent in the Acquisition Fund; any interest and gain earned on such investments shall be deposited in the Acquisition Fund, and any losses on such investments shall be charged to the Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

5. "Qualified Investments" means, to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations the timely payment of principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; or (v) repurchase agreements with any state or national bank or trust company, including the Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above, provided that such collateral is free and clear of claims of third parties and that the Escrow Agent or a third party acting solely as agent for the Escrow Agent has possession of such collateral and a perfected first security interest in such collateral; or (vi) money market mutual funds that are invested in securities described in (i), (ii) or (iii) and that are rated "Aaa" by Moody's Investors Service or "AAAm-G" by Standard & Poor's Ratings Services or the comparable rating by Fitch IBCA, Inc.

6. Moneys in the Acquisition Fund shall be used to pay for the cost of acquisition of the Equipment listed in the Lease. Such payment shall be made from the Acquisition Fund upon presentation to the Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as **Exhibit B**, executed by Lessee and approved in writing by Lessor, together with the Vendor's invoice specifying the acquisition price of the Equipment described in the Payment Request and Acceptance Certificate. In making any disbursement pursuant to this **Section 6**, the Escrow Agent may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and the Escrow Agent shall not be required to make any inquiry, inspection or investigation in connection therewith. Without limiting the foregoing, the Escrow Agent shall have no duty to review, and shall not be responsible for the contents of, invoices delivered to it hereunder. The approval of each Payment Request and Acceptance Certificate by the Lessor shall constitute unto the Escrow Agent an irrevocable determination by the Lessor that all conditions precedent to the payment of the amounts set forth therein have been completed.

7. The Acquisition Fund shall terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate and the Final Acceptance Certificate, a form of which is attached as **Exhibit C**, properly executed by Lessee, (b) 12 months from the date hereof (or such later date as may be agreed to in writing by Lessor and Lessee with notice in writing to Escrow Agent), or (c) the presentation of written notification by the Lessor that the Lease has been terminated pursuant to **Section 8** or **20** of the Lease. Upon termination as described in clause (a) or (b) of this paragraph, any amount remaining in the Acquisition Fund shall be paid to Lessor for application as provided in the Lease. Upon termination as described in clause (c) of this paragraph, any amount remaining in the Acquisition Fund shall immediately be paid to Lessor. The Escrow Agent may rely conclusively upon Lessor's written instructions in disbursing any amounts remaining in the Acquisition Fund upon termination and shall not be responsible in any manner for the exclusion from gross income of interest portions of Rental Payments under the Lease.

8. The Escrow Agent may at any time resign by giving at least 30 days written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of the Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent whereupon the duties and obligations of the predecessor Escrow Agent shall cease and terminate. If a successor Escrow Agent has not been so appointed within 90 days of such resignation or removal, the Escrow Agent may petition a court of competent jurisdiction to have a successor Escrow Agent appointed.

9. Any corporation or association into which the Escrow Agent may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Escrow Agent hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

10. The Escrow Agent incurs no responsibility to make any disbursements pursuant to the Escrow Agreement except from funds held in the Acquisition Fund. The Escrow Agent makes no representations or warranties as to the title to any Equipment listed in the Lease or as to the performance of any obligations of Lessor or Lessee.

11. The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection

with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of this Escrow Agreement other than its own execution thereof or any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

12. Unless the Escrow Agent is guilty of negligence or willful misconduct with regard to its duties hereunder, Lessee, to the extent permitted by law, and Lessor jointly and severally hereby agree to indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Escrow Agreement; and in connection therewith, to indemnify the Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

13. The aggregate amount of the costs, fees, and expenses of the Escrow Agent in connection with the creation of the escrow described in and created by this Escrow Agreement and in carrying out any of the duties, terms or provisions of this Escrow Agreement is a one time fee in the amount of \$250.00 to be paid by Lessee concurrently with the execution and delivery of this Escrow Agreement.

Notwithstanding the preceding paragraph, the Escrow Agent shall be entitled to reimbursement from Lessee of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Escrow Agreement (including attorneys' fees and expense). Claims for such reimbursement may be made to Lessee and in no event shall such reimbursement be made from funds held by the Escrow Agent pursuant to this Escrow Agreement. The Escrow Agent agrees that it will not assert any lien whatsoever on any of the money or Qualified Investments on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Escrow Agreement or otherwise.

14. If Lessee, Lessor, the Escrow Agent or any other person shall be in disagreement about the interpretation of the Lease or this Escrow Agreement, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall be entitled to refuse to comply with any demand or claim, as long as such disagreement shall continue, and in so refusing to make any delivery or other disposition of any money, papers or property involved or affected hereby, the Escrow Agent shall not be or become liable to the undersigned or to any other person for its refusal to comply with such demands, and the Escrow Agent shall be entitled to refuse and refrain to act until (a) such civil action has been resolved by full and final adjudication in a court assuming and having jurisdiction over such subject matter, or (b) all differences shall have been adjusted by agreement and the Escrow Agent shall have been notified thereof in writing, signed by all the interested parties. The Escrow Agent shall be indemnified by Lessor and Lessee, to the extent permitted by law, for all costs, including reasonable attorneys' fees and expenses, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Escrow Agreement until a final judgment in such action is received.

15. The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection for any action or non-action taken by the Escrow Agent in accordance with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or willful misconduct.

16. This Escrow Agreement shall be governed by and construed in accordance with the laws of the state of California.

17. In the event any provision of this Escrow 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.

18. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original. The transactions described herein may be conducted and related documents may be sent and stored by electronic means.

19. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original.

20. The parties hereto agree that, for tax reporting purposes, all interest or other income, if any, attributable to the Escrowed Funds or any other amount held in escrow by the Escrow Agent pursuant to this Agreement shall be allocable to the Lessee. The Lessee and Lessor agree to provide the Escrow Agent completed Forms W-9 (or Forms W-8, in the case of non-U.S. persons) and other forms and documents that the Escrow Agent may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Agreement. Additionally, the parties hereto agree that they will provide any information reasonably requested by the Escrow Agent to comply with the USA Patriot Act of 2001, as amended from time to time, and the Bank Secrecy Act of 1970, as amended from time to time (together the "Acts"), which information will be used to verify the identities of the parties to ensure compliance with the terms of such Acts. The parties hereto understand that if such Tax Reporting Documentation is not so certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Escrow Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Lessor, Lessee and the Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives.

Clayton Holdings, LLC
LESSOR

By: _____

Title: _____

City of Clovis, California
LESSEE

By: _____

Printed Name: *Luke Serpa* _____

Title: *City Manager* _____

UMB Bank, N.A.
ESCROW AGENT

By: _____

Title: _____

EXHIBIT A**ARBITRAGE INSTRUCTIONS**

These Arbitrage Instructions provide procedures for complying with § 148 of the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exclusion from federal gross income of the interest portions of the Rental Payments under the Lease.

1. Temporary Period/Yield Restriction. Except as described in this paragraph, money in the Acquisition Fund must not be invested at a yield greater than the yield on the Lease. Proceeds of the Lease in the Acquisition Fund and investment earnings on such proceeds may be invested without yield restriction for three years after the Start Date of the Lease. If any unspent proceeds remain in the Acquisition Fund after three years, such amounts may continue to be invested without yield restriction so long as Lessee pays to the IRS all yield reduction payments under § 1.148-5(c) of the Treasury Regulations.

2. Opinion of Bond Counsel. These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations, satisfactory to Lessor, that such modifications and amendments will not adversely affect the exclusion of the interest portions of Rental Payments from gross income for federal income tax purposes.

EXHIBIT B

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

To: Clayton Holdings, LLC, as Lessor
8000 Forsyth Blvd., Suite 510
St. Louis, Missouri 63105

UMB Bank, N.A., as Escrow Agent
928 Grand Blvd., 12th Floor
Kansas City, MO 64106

Re: City of Clovis, California SCH 001 Acquisition Fund established by the Escrow Agreement, dated May 21, 2020 (the "Escrow Agreement") among Clayton Holdings, LLC, as lessor ("Lessor"), City of Clovis, California ("Lessee") and UMB Bank, N.A., as Escrow Agent (the "Escrow Agent")

Ladies and Gentlemen:

The Escrow Agent is hereby requested to pay from the Acquisition Fund to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition of the equipment or the interest portions of Rental Payment(s) described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment or payment of the interest portions of Rental Payment(s) and has not formed the basis of any prior request for payment.

The equipment described below is part or all of the "Equipment" that is listed in State and Municipal Lease/Purchase Agreement dated as of the Twenty-First day of May, 2020 (the "Lease") described in the Escrow Agreement.

Equipment: _____

Payee: _____

Amount: \$ _____

Lessee hereby certifies and represents to and agrees with Lessor and the Escrow Agent as follows:

1. All of the above-listed Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.

2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.

3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.

4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.

5. Lessee is currently maintaining the insurance coverage required by **Section 17** of the Lease

6. The serial number for each item of Equipment which is set forth on Schedule A to the Lease is correct.

APPROVED:

Dated: _____, 20__

Clayton Holdings, LLC
LESSOR

City of Clovis, California
LESSEE

By: _____

By: _____

Title: _____

Printed Name: Luke Serpa
Title: City Manager

EXHIBIT C

FINAL ACCEPTANCE CERTIFICATE

[THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN ALL EQUIPMENT
HAS BEEN ACCEPTED]

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with the Escrow Agent and Lessor pursuant to the Escrow Agreement, constitutes all of the Equipment subject to the Lease.

Dated: _____

City of Clovis, California
LESSEE

By: _____

Printed Name: Luke Serpa
Title: City Manager

IRS FORM 8038-G

**[To be prepared by Lessee]
Insert 8038 as slip page.**



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services Department

DATE: June 1, 2020

SUBJECT: Planning and Development Services - Approval - Bid Award for CIP 18-11, Fowler Avenue Reconstruction; and Authorize the City Manager to execute the contract on behalf of the City.

ATTACHMENTS: 1. Vicinity Map

CONFLICT OF INTEREST

None

RECOMMENDATION

1. For the City Council to award a contract for CIP 18-11 Fowler Avenue Reconstruction to Asphalt Design by Juan Gomez in the amount of \$615,646; and
2. For the City Council to authorize the City Manager to execute the contract on behalf of the City.

EXECUTIVE SUMMARY

Staff is recommending that City Council authorize the City Manager to award and execute the contract to Asphalt Design by Juan Gomez who was the lowest responsible bidder from a bid opening that took place on May 19, 2020.

This project involves improvements along Fowler Avenue from Barstow Avenue to Shaw Avenue. Construction will consist of pavement grinding, grading, saw cutting, compaction, asphalt concrete paving, access ramps, utility adjustments, signal modifications, striping and signage.

BACKGROUND

The following is a summary of the bid results of May 19, 2020:

BIDDERS	BASE BIDS
Asphalt Design	\$615,646.00
AJ Excavation, Inc.	\$651,582.00
Dave Christian Construction	\$664,647.90
Yarbs Grading & Paving	\$673,565.00
Avison Construction, Inc.	\$733,352.00
American Paving Company	\$746,244.20
Agee Construction Corp.	\$756,005.00
Granite Construction	\$762,086.00
Bush Engineering, Inc.	\$764,492.00
Seal Rite Paving	\$772,931.00
Emmett's Excavation	\$831,185.00
Dawson-Mauldin	\$834,972.00
 ENGINEER'S ESTIMATE	 \$783,762.00

All bids were examined and the bidder's submittals were found to be in order. Asphalt Design by Juan Gomez is the lowest bidder. Staff has validated the lowest bidder contractor's license status.

FISCAL IMPACT

This project was budgeted in the 2019-2020 fiscal year budget. The project is supported by Senate Bill 1 (SB1) funds, the Road and Repair Accountability Act of 2017.

REASON FOR RECOMMENDATION

Asphalt Design by Juan Gomez is the lowest responsible bidder. There are sufficient funds available for the anticipated cost of this project.

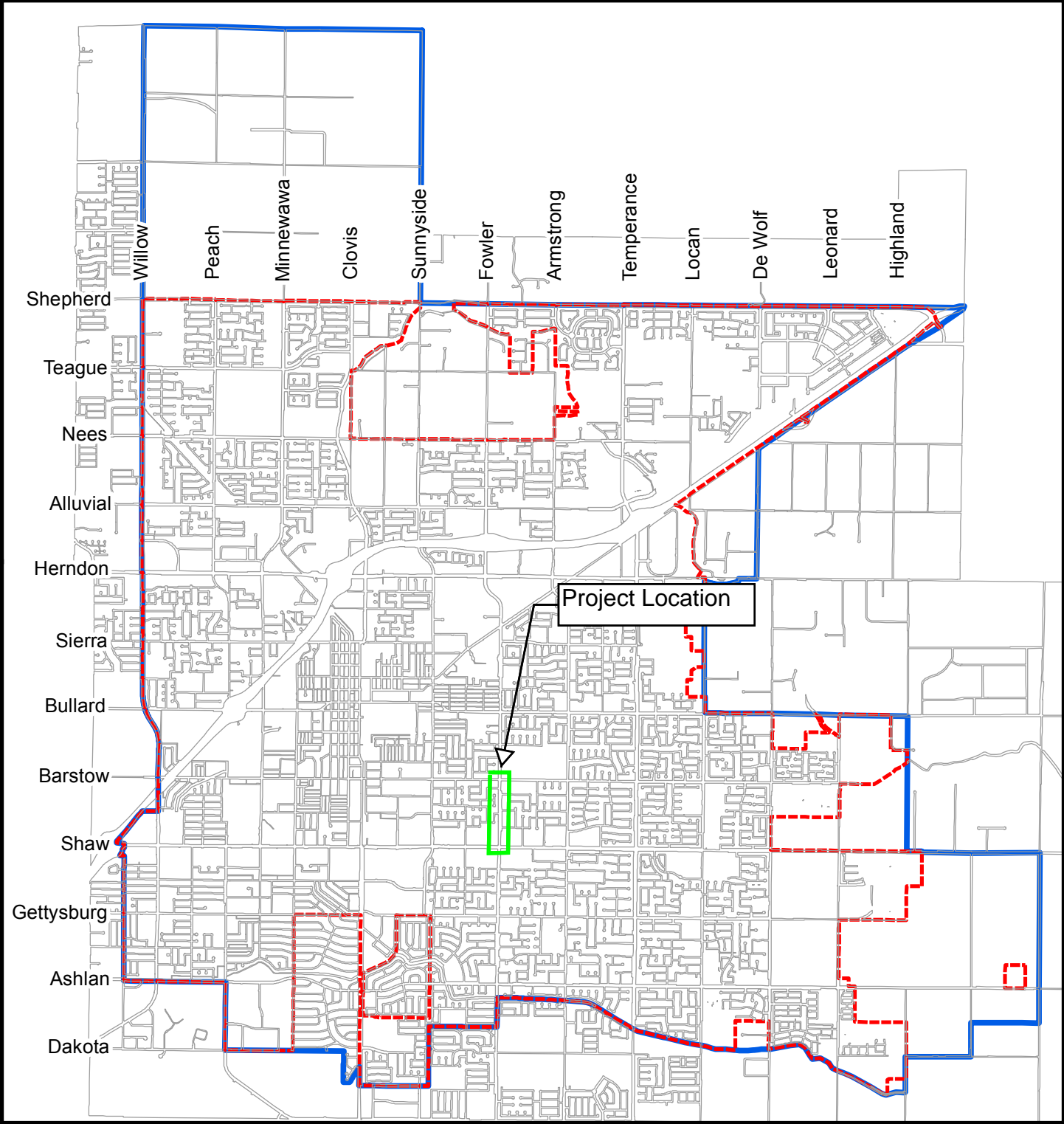
ACTIONS FOLLOWING APPROVAL

1. The contract will be prepared and executed, subject to the Contractor providing performance security that is satisfactory to the City.
2. Construction will begin approximately two (2) weeks after contract execution and shall be completed in thirty-five (35) working days thereafter.

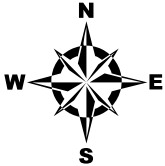
Prepared by: Kevin Gross, Civil Engineer

Reviewed by: City Manager 

VICINITY MAP



ATTACHMENT 1



 CITY LIMITS  SPHERE OF INFLUENCE

Prepared By:



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Public Utilities Department

DATE: June 1, 2020

SUBJECT: Public Utilities – Approval – Award Non-Exclusive Franchise Agreements for hauling of Construction and Demolition debris to the following applicants: Clovis Recycling, Inc.; F-N-F Roll-Off Service; HD Matthews Demolition and Excavation; Hinojosa Cleanup Service; Kochergen Farms Composting, Inc; and Accurate Cleaning Systems.

ATTACHMENTS: 1. Approved Hauler List

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to award two-year, non-exclusive franchise agreements to Clovis Recycling, Inc.; F-N-F Roll-Off Service; HD Matthews Demolition and Excavation; Hinojosa Cleanup Service; Kochergen Farms Composting, Inc.; and Accurate Cleaning Systems.

EXECUTIVE SUMMARY

On May 6, 2013, Council adopted Ordinance 13-12, pertaining to the recycling and diversion of construction and demolition debris (C&D). One of the requirements of this ordinance is that all firms hauling C&D in Clovis must apply for and be awarded a non-exclusive C&D hauling franchise agreement. This year we had 6 applications, five of which are renewing their agreement that expires on June 30, 2020 and one of which is a new applicant. Staff is recommending that all applicants be awarded a two-year, non-exclusive C&D hauling franchise agreement and be added to the City's list of approved haulers.

BACKGROUND

AB 939 – the California Waste Management Act of 1989 (Public Resources Code §§ 40000 et seq.) – along with the California Green Building Standards Code or CALGreen (CCR, Title 24, Part 11) require the City of Clovis to prepare, adopt, and implement source reduction and recycling plans to reach landfill diversion goals. The City has achieved the

State's diversion goals, but AB 939 also requires the City to annually report to the State the quantities of waste that are disposed of in landfills and the quantities of waste that are diverted through recycling programs. CALGreen further instructs local jurisdictions to require contractors to develop and maintain a waste management plan and to divert a minimum of 65 percent of waste material.

Debris from construction, demolition, and renovation of buildings is the largest waste stream from Clovis that is not hauled by the City or the City's direct contractors. Prior to the adoption of Ordinance 13-12, the hauling of this waste was unregulated and the City had no means to track and report the quantities of this waste that are recycled or disposed of in landfills. The ordinance established non-exclusive C&D debris hauling franchises for haulers wishing to haul C&D debris generated within the City. The ordinance also prohibits non-franchised haulers from transporting C&D debris generated in Clovis. Lastly, the ordinance requires the franchised haulers to report to the City the quantities of this material that they recycle and dispose of in landfills, and to pay the AB 939 surcharges associated with any C&D debris they dispose of in landfills.

The ordinance established a fee of \$1,000 for each two-year, non-exclusive franchise. The fee is based on the estimated costs for the staff time that will be spent to process each application and to review the quarterly reporting from each hauler. The ordinance was prepared with input from the Building Industry Association (BIA) and from local waste haulers.

FISCAL IMPACT

There is no significant fiscal impact to the City associated with the award of this franchise. The application fee for the two-year, non-exclusive franchise agreement to haul C&D debris is based on the estimated costs for staff time to process the applications and to review and process the quarterly reports from each hauler.

REASON FOR RECOMMENDATION

Haulers must be franchised in order to haul C&D debris in Clovis. All applicants recommended for approval have met all of the requirements for the non-exclusive franchise.

ACTIONS FOLLOWING APPROVAL

Originals of the franchise agreements will be forwarded to the City Manager for signature. Staff will notify the haulers that they have been awarded the non-exclusive franchise agreements. Staff will provide the Building Official with the list of the approved C&D haulers. Staff will monitor the franchised haulers' reports for compliance with Ordinance 13-12.

Prepared by: Glenn Eastes, Assistant Public Utilities Director

Reviewed by: City Manager *GA*

EFFECTIVE 07-01-20

APPROVED CONSTRUCTION AND DEMOLITION (C&D) HAULERS

Approval valid through 7-01-2021

Allied Waste Services of Fresno
 5501 N. Golden State Boulevard
 Fresno, CA 93722
 (559) 275-1551
<http://local.republicservices.com/site/fresno>

Waste Management
 4333 E. Jefferson Avenue
 Fresno, CA 93725
 (559) 834-4070
www.wm.com

Industrial Waste & Salvage
 3457 S. Cedar Avenue
 Fresno, CA 93725
 (559) 233-1159
www.caqliaenvironmental.com

Mid Valley Disposal
 2721 S. Elm Avenue, Fresno, CA 93706
 15300 W. Jensen Avenue, Kerman, CA 93630
 (559) 237-9425
www.midvalleydisposal.com

Kroeker, Inc.
 4627 S. Chestnut Avenue
 Fresno, CA 93725
 (559) 237-3764
www.kroekerinc.com

Mini Dumpsters of Fresno, LLC
 1636 H Street
 Fresno, CA 93721
 (559) 696-6626
www.minidumpstersoffresno.com

North Cal Hauling Company
 5716 Folsom Boulevard, #285
 Sacramento, CA 95819
 (916) 381-9033
www.northcalhauling.com

Nick's Trucking, Inc.
 7420 N. Van Ness Boulevard
 Fresno, CA 93711
 (559) 281-2267

Approval valid through 7-01-2022

Clovis Recycling, Inc.
 DBA: C & W Enterprises
 710 Jefferson Avenue
 Clovis, CA 93612
 (559) 325-2128
www.clovisrecyclingcenter.com

Hinojosa Cleanup Service (HCS)
 777 Minnewawa Avenue, Suite 2
 Clovis, CA 93612
 (559) 647-2602
www.hcsrolloff.com

F-N-F Roll-Off Service
 P.O. Box 11807
 Fresno, CA 93775
 (559) 318-0644

Kochergen Farms Composting, Inc.
 DBA: Green Valley Recycling
 P.O. Box 11006
 Fresno, CA 93771
 (559) 266-2650
www.kochergenfarmscomposting.com

HD Matthews Demolition & Excavation
 P.O. Box 12483
 Fresno, CA 93778
 (559) 275-3366

Accurate Cleaning Systems
 802 Industrial Drive, Suite 200
 Hollister, CA 95023
 (831) 636-9767



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: June 1, 2020

SUBJECT: Consider Review and Approval - Res. 20-____, 2020-2021 City of Clovis Annual Budget, Five Year Capital Improvement Program, and Information regarding the Clovis Successor Agency. (Continued from the May 18, 2020 Council Meeting.)

Staff: Jay Schengel, Finance Director

Recommendation: Approve

ATTACHMENTS: 1. Res. 20-____

CONFLICT OF INTEREST

None.

RECOMMENDATION

Consider review and approval of the City of Clovis Annual Budget, Five year Capital Improvement Program, and information regarding the Clovis Successor Agency. Open the public hearing for departmental review and comment, continue the public hearings to June 1, 2020, and adopt the budget resolution no later than June 30, 2020.

EXECUTIVE SUMMARY

The 2020-2021 Annual Budget for general operations and capital improvement programs for the City of Clovis in the amount of \$282.4 million is balanced and is hereby submitted, in accordance with the Clovis Municipal Code.

The 2020-2021 Annual Budget is not a status quo budget. Significant cuts have been implemented in the 2019-2020 fiscal year budget that is being carried forward into this budget. The major challenge in the current budget, and years to come, is focused on the \$76.8M General Fund budget where sales and property taxes make up 67% of the total General Fund revenues. Due to the financial impact of the COVID-19 pandemic statewide stay-at-home order, General Fund forecasted revenues will be less than forecasted expenditures for the fiscal year 2020-2021 budget. This budget forecasts the need to use emergency reserves to balance a proposed structurally imbalanced budget. Staff is forecasting a \$10 million General Fund revenue reduction between March 2020 and June

2021. Staff is also estimating that approximately \$2 million in emergency reserves will be required to balance the fiscal year 2020-2021 budget, and potentially more the following fiscal year. At this point, staff is estimating an ending General Fund balance for June 30, 2020 of \$10.8 million, or 14.7% of the General Fund expenditures. Staff is estimating that reserve amount will drop to approximately 14% by June 30, 2021.

BACKGROUND

Sales tax revenues are not expected to perform as previously expected, with projected declines of 1.8% in 2019-2020 and 12.6% in 2020-2021, due to the COVID-19 pandemic which prompted the Governor's Executive Orders to shelter-in-place and close businesses not deemed essential. Sales taxes comprise approximately 33% of total General Fund discretionary revenue and largely support public safety services.

Property taxes are forecast to increase overall, with increasing residential property values and stabilized commercial property values. The normal Proposition 13 increases direct that assessed valuation of property may only increase by a maximum rate of 2% annually or by the Consumer Price Index (CPI), whichever is lower, and by the recapture of previous Proposition 8 automatic declines processed in prior years. Property taxes, including property tax in-lieu of motor vehicle license fees, comprise the main discretionary revenue source for General Fund operations. These property-related taxes represent approximately 41% of total General Fund discretionary revenue and largely support public safety services. Economists are currently forecasting that property values, especially commercial, could be negatively impacted a year to two from now, negatively impacting future property tax revenues.

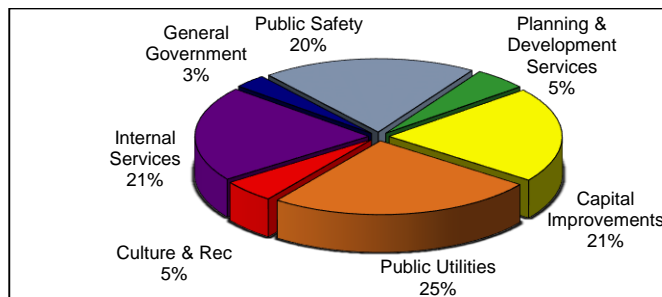
One of the keys for the long-term fiscal health of a growing community like Clovis is to accumulate savings sufficient to fund an emergency reserve that would adequately protect the City against an unexpected catastrophic event, and protect City services until other options could be implemented during a rapid economic downturn. The COVID-19 pandemic meets this definition and the use of emergency reserves will be required in 2020-2021, and likely the following year. The emergency reserve is being maintained with 14.7%, or \$10.8 million.

Enterprise operations and other funds need to be self-balancing with sufficient reserves to meet service obligations and debt coverage. All enterprise operations and other funds are balanced. In addition, Sewer and Water operations have an authorized 3% rate escalator and Community Sanitation operations have an authorized 4% rate escalator. Sewer will not have a rate increase in this year's budget and the full \$7.30 bond surcharge will be rebated. Water will implement the authorized 3% increase and has two rate schedules: one for normal conditions and one for drought conditions. This year's budget anticipates normal conditions. Community Sanitation will have a 4% increase for recycling and green waste services, and a 4% increase for refuse service. Each year, staff evaluates all Enterprise Funds to determine if any rate adjustments are necessary.

The Transit Enterprise remains fully funded and, with the City's population exceeding the 100,000 mark, Transit will receive the entire allocation of Local Transportation Funding.

The 2020-2021 Annual Budget for all funds totals \$282.4 million and is balanced by the use of current revenues, anticipated rate increases, capital reserves and the use of \$2 million of the designated emergency reserve. This budget represents a 5% increase compared to estimated expenditures for 2019-2020, due primarily to increased costs associated with operational costs. The General Fund Budget represents a 0.5% increase compared to estimated expenditures for 2019-2020. A summary of expenditures by function is provided below:

General Government	\$ 7,779,100
Public Safety	56,973,300
Planning & Development Services	14,725,600
Capital Improvements	58,926,000
Public Utilities	70,367,200
Culture & Rec.	14,446,200
Internal Services	59,231,700
TOTAL	\$ 282,449,100



The General Fund, which is the only source of discretionary funding used for basic government services such as public safety, streets, parks, recreation and senior services, is budgeted to increase .5% above estimated expenditures for 2019-2020. Department budgets are proposed to increase due to budget increases for core services as well as additional salary and benefit costs. Total current revenue in the General Fund is estimated at \$73.3 million and expenditures of \$76.8 million are being proposed.

FISCAL IMPACT

In accordance with the Municipal Code, and in compliance with State law, the City Council is required to adopt a balanced, annual budget for each fiscal year by June 30. The Annual Budget provides a spending plan for the upcoming year that is balanced with expenditures kept in line with revenues, and the use of emergency reserves includes a five-year capital investment plan for the community.

REASON FOR RECOMMENDATION

The City Council must conduct a public hearing to provide an opportunity for the public to comment on the proposed Annual Budget; must review the proposal to determine that the financial plan fairly represents the fiscal policies and priorities of the City Council; and is required by local ordinance, in compliance with State law, to adopt a balanced budget by no later than June 30, 2020. If the Council fails to adopt a budget by that date, then the City Manager’s proposed budget will automatically become effective to avoid any interruption in City operations but no capital projects or capital purchases would be allowed until final action by the City Council.

ACTIONS FOLLOWING APPROVAL

On May 18, 2020, the 2020-2021 City of Clovis Annual Budget will be presented and recommending opening the public hearing for departmental review and comment, continue the public hearings to June 1, 2020, and adopt the budget resolution no later than June 30, 2020. The recommended Annual Budget will be available for review by the public by May 22, 2019 on the City's website found at www.cityofclovis.com.

Prepared by: John Holt, Assistant City Manager

Reviewed by: City Manager *JH*

RESOLUTION 20-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS APPROVING THE ANNUAL BUDGET FOR FISCAL YEAR 2020-2021, FIVE YEAR CAPITAL IMPROVEMENT PROGRAM, ORDERING TRANSFERS, AND ADOPTING THE SUMMARY OF APPROPRIATIONS BY FUND AND DEPARTMENT AND OTHER NECESSARY ACTIONS RELATED TO APPROVING THE 2020-2021 BUDGET

WHEREAS, the City Council is required to adopt the Budget by June 30 of each year; and

WHEREAS, the Council has conducted a public hearing on the recommended 2020-2021 Budget; and

WHEREAS, the adoption of Proposition 111 on June 5, 1990, requires the Council adopt an Appropriation Limit; and

WHEREAS, the Council intends to establish the City's Appropriation Limit in conformance with the provisions of Proposition 111; and

WHEREAS, the City Council finds it necessary to adopt the 2020-2021 Budget; and

WHEREAS, the City Council finds it necessary to approve the Five Year Capital Improvement Program,

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

1. The 2020-2021 Annual Budget and corresponding Personnel Allocation is approved.
2. The City Council approves and orders the transfer of monies in and out of various funds as set forth in the "Notes to Resources and Appropriations Summary" of said 2020-2021 Budget Book.
3. The "Summary of Expenditures/Expenses 2020-21 by Department within Fund-Legal Level of Budgetary Control" attached as Exhibit "A" is approved.
4. The Appropriation Limit as calculated and shown on Page 9 of the 2020-2021 Budget book is approved for \$300,381,962.
5. The Council orders that any budget savings or unanticipated revenue be transferred to reserves in accordance with the Appropriation Limit.
6. Any amendments to the appropriations as may be subsequently approved by the Council shall be in conformance with Section 2-8.11, Section 2-8.13 and Section 2-8.17 of the Clovis Municipal Code.

7. The City Council orders that \$10,760,000 of the Fund Balance from the City's General Fund be designated as Emergency Reserve.
8. The City Council approves the Five Year Capital Improvement Program that is included within the Annual Budget.
9. The existing Monthly Salary Schedules by bargaining group are attached as Exhibit "B". Salary negotiations are currently in process and upon completion an amended resolution will be presented for adoption.
10. The Clovis Redevelopment Successor Agency's information is included in the City budget and accounting systems for administrative purposes and is shown on Exhibit A.
11. The City Council will waive the approved 3% annual increase in sewer user rates and will refund in full the \$7.30 per month sewer bond surcharge thereby adopting the fees itemized in Exhibit C.
12. The City Council will implement the approved annual 4% increase in rates for residential recycling and greenwaste and for residential and commercial refuse rates as shown in Exhibit D.
13. The City Council will implement the approved 3% annual increase in water user rates thereby adopting the fees itemized in Exhibit E. The non-drought rates on Exhibit E will be in effect for 2020-2021.

* * * * *

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on June 1, 2020, the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Dated: June 1, 2020

Mayor

City Clerk

City of Clovis Summary of Expenditures/Expenses 2020-2021 By Department within Fund-Legal Level of Budgetary Control													City 2020-2021 Total	Clovis Successor Agency
FUND	DEPARTMENT													
	City Council	City Clerk	City Attorney	City Manager	General Services	Finance	Planning & Dev Serv	Police	Fire	Public Utilities	Capital Improvements			
GENERAL														
General Fund	\$ 355,200	\$ 488,100	\$ 966,000	\$ 1,954,400	\$ 2,191,400	\$ 3,253,500		\$ 39,454,700	\$ 17,518,600	\$ 10,639,700		\$ 76,821,600		
SPECIAL REVENUE FUNDS														
Housing & Community Development				242,500								242,500		
Landscape Assessment District										3,979,000		3,979,000		
Total Special Revenue				<u>242,500</u>						<u>3,979,000</u>		<u>4,221,500</u>		
INTERNAL SERVICE FUNDS														
Liab & Prop Ins					2,938,400							2,938,400		
Employee Benefits					30,537,200							30,537,200		
Fleet Maintenance										12,835,400		12,835,400		
General Govt Services		4,385,900			8,534,800							12,920,700		
Total Internal Service		<u>4,385,900</u>			<u>42,010,400</u>					<u>12,835,400</u>		<u>59,231,700</u>		
ENTERPRISE FUNDS														
Community Sanitation										22,333,500		22,333,500		
Wastewater										15,361,400		15,361,400		
Water										23,950,800		23,950,800		
Transit					6,877,000							6,877,000		
Planning & Development Services							14,725,600					14,725,600		
Total Enterprise					<u>6,877,000</u>		<u>14,725,600</u>			<u>61,645,700</u>		<u>83,248,300</u>		
CAPITAL IMPROVEMENT FUNDS														
Sewer Construction														
Capital-Enterprise											535,000	535,000		
Capital-Developer											7,502,000	7,502,000		
Park Projects											1,540,000	1,540,000		
Street Construction											32,935,000	32,935,000		
Water Construction														
Capital-Enterprise											3,380,000	3,380,000		
Capital-Developer											3,739,000	3,739,000		
Housing & Community Development											2,525,000	2,525,000		
Community Sanitation Construction											250,000	250,000		
General Govt Facilities											6,520,000	6,520,000		
Total Capital Improvement											<u>58,926,000</u>	<u>58,926,000</u>		
Citywide Grand Totals	<u>\$ 355,200</u>	<u>\$ 4,874,000</u>	<u>\$ 966,000</u>	<u>\$ 2,196,900</u>	<u>\$ 51,078,800</u>	<u>3,253,500</u>	<u>\$ 14,725,600</u>	<u>\$ 39,454,700</u>	<u>\$ 17,518,600</u>	<u>\$ 89,099,800</u>	<u>\$ 58,926,000</u>	<u>\$ 282,449,100</u>		
Clovis Successor Agency Grand Total													<u>\$ 1,366,000</u>	

EXHIBIT A

CITY OF CLOVIS

CFFA Monthly Salary Schedule - July 1, 2020

Revised 7/1/2020

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
2125	Firefighter (Base)	100	6,433	6,755	7,093	7,448	7,820
2150	Firefighter (2.5%) Ed Incent		6,594	6,924	7,270	7,634	8,016
MOU 30.2	30 Fire Science Units	CDH 1120	161.00	169.00	177.00	186.00	196.00
		PP	80.50	84.50	88.50	93.00	98.00
2175	Firefighter (5.0%) Ed Incent		6,759	7,097	7,452	7,825	8,216
MOU 30.2	Fire Certification or	CDH 1121	326.00	342.00	359.00	377.00	396.00
	AA, AS, BA, BS Degree	PP	163.00	171.00	179.50	188.50	198.00
2425	Firefighter Lateral	100	6,433	6,755	7,093	7,448	7,820
2450	Firefighter (2.5%) Ed Incent		6,594	6,924	7,270	7,634	8,016
MOU 30.2	30 Fire Science Units	CDH 1120	161.00	169.00	177.00	186.00	196.00
		PP	80.50	84.50	88.50	93.00	98.00
2475	Firefighter (5.0%) Ed Incent		6,759	7,097	7,452	7,825	8,216
MOU 30.2	Fire Certification or	CDH 1121	326.00	342.00	359.00	377.00	396.00
	AA, AS, BA, BS Degree	PP	163.00	171.00	179.50	188.50	198.00
2225	Fire Engineer (Base)	200	7,125	7,481	7,855	8,248	8,660
2250	Fire Engineer (2.5%) Ed In		7,303	7,668	8,051	8,454	8,877
MOU 30.2	30 Fire Science Units	CDH 1120	178.00	187.00	196.00	206.00	217.00
		PP	89.00	93.50	98.00	103.00	108.50
2275	Fire Engineer (5.0%) Educ Inc		7,486	7,860	8,252	8,665	9,099
MOU 30.2	Fire Certification or	CDH 1121	361.00	379.00	397.00	417.00	439.00
	AA, AS, BA, BS Degree	PP	180.50	189.50	198.50	208.50	219.50
2600	Fire Inspector (Base)	250	6,525	6,851	7,194	7,554	7,932
2610	Fire Inspector (2.5%) Educ In		6,688	7,022	7,374	7,743	8,130
MOU 30.2	30 Fire Science Units	CDH 1120	163.00	171.00	180.00	189.00	198.00
		PP	81.50	85.50	90.00	94.50	99.00
2620	Fire Inspector (5.0%) Educ Inc		6,855	7,198	7,558	7,937	8,333
MOU 30.2	Fire Certification or	CDH 1121	330.00	347.00	364.00	383.00	401.00
	AA, AS, BA, BS Degree	PP	165.00	173.50	182.00	191.50	200.50
2325	Fire Captain (Base)	300	8,318	8,734	9,171	9,630	10,112
2350	Fire Captain (2.5%) Educ Inc		8,526	8,952	9,400	9,871	10,365
MOU 30.2	30 Fire Science Units	CDH 1120	208.00	218.00	229.00	241.00	253.00
		PP	104.00	109.00	114.50	120.50	126.50
2375	Fire Captain (5.0%) Ed Inc		8,739	9,176	9,635	10,118	10,624
MOU 30.2	Fire Certification or	CDH 1121	421.00	442.00	464.00	488.00	512.00
	AA, AS, BA, BS Degree	PP	210.50	221.00	232.00	244.00	256.00
2200	Deputy Fire Marshal (Base)	350	8,942	9,389	9,858	10,351	10,869
2210	Deputy Fire Marshal 2.5% Ed In		9,166	9,624	10,104	10,610	11,141
MOU 30.2	30 Fire Science Units	CDH 1120	224.00	235.00	246.00	259.00	272.00
		PP	112.00	117.50	123.00	129.50	136.00
2220	Deputy Fire Marshal 5.0% Educ		9,395	9,865	10,357	10,875	11,420
MOU 30.2	Fire Certification or	CDH 1121	453.00	476.00	499.00	524.00	551.00
	AA, AS, BA, BS Degree	PP	226.50	238.00	249.50	262.00	275.50
2800	Fire Training Officer (Base)	350	8,942	9,389	9,858	10,351	10,869
2810	Fire Training Officer (2.5%)		9,166	9,624	10,104	10,610	11,141
MOU 30.2	30 Fire Science Units	CDH 1120	224.00	235.00	246.00	259.00	272.00
		PP	112.00	117.50	123.00	129.50	136.00
2820	Fire Training Officer (5.0%)		9,395	9,865	10,357	10,875	11,420
MOU 30.2	Fire Certification or	CDH 1121	453.00	476.00	499.00	524.00	551.00
	AA, AS, BA, BS Degree	PP	226.50	238.00	249.50	262.00	275.50

Deputy Fire Marshal and Fire Training Officer positions are filled by Fire Captains

EXHIBIT B

CITY OF CLOVIS

CPOA - Monthly Salary Schedule - July 1, 2020

Revised 7/1/20

Code Trainees
as PERS MISC
not PERS Safety

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
4025	Police Officer (Trainee)	100	3,999	4,199	4,409	4,629	4,860
4050	Police Officer (Recruit)	250	6,061	6,364	6,682	7,016	7,367
4125	Police Officer (Base)	300	6,879	7,223	7,584	7,963	8,361
4150	Police Officer (2.5%) Ed Inc		7,051	7,404	7,774	8,162	8,570
	AP or	CDH 1120	172.00	181.00	190.00	199.00	209.00
	AA-AS/IP or AA-AS/AP	PP	86.00	90.50	95.00	99.50	104.50
4175	Police Officer (5.0%) Ed Inc		7,223	7,584	7,963	8,361	8,779
	MA-MS or BA-BS no post or	CDH 1121	344.00	361.00	379.00	398.00	418.00
	BA-BS/IP	PP	172.00	180.50	189.50	199.00	209.00
4180	Police Officer (7.5%) Ed Inc		7,395	7,765	8,153	8,560	8,988
	MA-MS/AP or	CDH 1122	516.00	542.00	569.00	597.00	627.00
	BA-BS/AP	PP	258.00	271.00	284.50	298.50	313.50
4225	Police Corporal (Base)	350	7,765	8,153	8,561	8,989	9,438
4250	Police Corporal (2.5%) Ed Inc		7,959	8,357	8,775	9,214	9,674
	AP or	CDH 1120	194.00	204.00	214.00	225.00	236.00
	AA-AS/IP or AA-AS/AP	PP	97.00	102.00	107.00	112.50	118.00
4275	Police Corporal (5.0%) Ed Inc		8,153	8,561	8,989	9,438	9,910
	MA-MS or BA-BS no post or	CDH 1121	388.00	408.00	428.00	449.00	472.00
	BA-BS/IP	PP	194.00	204.00	214.00	224.50	236.00
4280	Police Corporal (7.5%) Ed Inc		8,347	8,764	9,203	9,663	10,146
	MA-MS/AP or	CDH 1122	582.00	611.00	642.00	674.00	708.00
	BA-BS/AP	PP	291.00	305.50	321.00	337.00	354.00
4325	Police Sergeant (Base)	400	8,952	9,400	9,870	10,364	10,882
4350	Police Sergeant (2.5%) Ed Inc		9,176	9,635	10,117	10,623	11,154
	AP or	CDH 1120	224.00	235.00	247.00	259.00	272.00
	AA-AS/IP or AA-AS/AP	PP	112.00	117.50	123.50	129.50	136.00
4375	Police Sergeant (5.0%) Ed Inc		9,400	9,870	10,364	10,882	11,426
	MA-MS or BA-BS no post or	CDH 1121	448.00	470.00	494.00	518.00	544.00
	BA-BS/IP	PP	224.00	235.00	247.00	259.00	272.00
4380	Police Sergeant (7.5%) Ed Inc		9,623	10,105	10,610	11,141	11,698
	MA-MS/AP or	CDH 1122	671.00	705.00	740.00	777.00	816.00
	BA-BS/AP	PP	335.50	352.50	370.00	388.50	408.00

CITY OF CLOVIS

CPWEA - Monthly Salary Schedule - July 1, 2020

Revised 7/1/20

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
1040	Assistant Building Technician	600	5,261	5,524	5,800	6,090	6,395
1080	Asst Water Systems Technician	670	5,367	5,635	5,917	6,213	6,524
1130	Building Maintenance Leadworker	800	5,898	6,193	6,503	6,828	7,169
1140	Building Maintenance Worker	300	4,424	4,645	4,877	5,121	5,377
1160	Disposal Leadworker	800	5,898	6,193	6,503	6,828	7,169
1175	Electrician	900	6,304	6,619	6,950	7,298	7,663
1200	Equipment Mechanic	650	5,349	5,616	5,897	6,192	6,502
1240	Equipment Mechanic Assistant	450	4,977	5,226	5,487	5,761	6,049
1280	Equipment Operator	700	5,523	5,799	6,089	6,393	6,713
1320	Equipment Service Worker	300	4,424	4,645	4,877	5,121	5,377
1360	Fleet Maintenance Leadworker	800	5,898	6,193	6,503	6,828	7,169
1370	Fleet Maintenance Service Writer	350	4,659	4,892	5,137	5,394	5,664
1400	Landfill Leadworker	800	5,898	6,193	6,503	6,828	7,169
1440	Maintenance Leadworker	800	5,898	6,193	6,503	6,828	7,169
1480	Maintenance Worker	150	3,930	4,127	4,333	4,550	4,778
1520	Meter Reader	200	4,441	4,663	4,896	5,141	5,398
1560	Parks Maintenance Leadworker	800	5,898	6,193	6,503	6,828	7,169
1600	Parks Sr. Maintenance Worker	400	4,968	5,216	5,477	5,751	6,039
1640	Parts Clerk	350	4,659	4,892	5,137	5,394	5,664
1720	Senior Maintenance Worker	400	4,968	5,216	5,477	5,751	6,039
1760	Senior Sanitation Operator	550	5,110	5,366	5,634	5,916	6,212
1800	Street Sweeper Operator	500	5,059	5,312	5,578	5,857	6,150
1820	Utility Worker	100	3,126	3,282	3,446	3,618	3,799
1840	Water Systems Technician	850	6,014	6,315	6,631	6,963	7,311
1860	Water Treatment Plant Operator	850	6,014	6,315	6,631	6,963	7,311

CITY OF CLOVIS
CEA - Monthly Salary Schedule - July 1, 2020

Revised 7/1/2020

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
5060	Administrative Assistant	490	4,831	5,073	5,327	5,593	5,873
5375	Custodian	090	3,422	3,593	3,773	3,962	4,160
5795	Principal Account Clerk	340	4,216	4,427	4,648	4,880	5,124
5805	Principal Office Assistant	340	4,216	4,427	4,648	4,880	5,124
5826	Recreation Leader	040	2,809	2,949	3,096	3,251	3,414
5830	Recreation Specialist	310	4,129	4,335	4,552	4,780	5,019
5840	Sr Center Nutrition Services Worker	180	3,487	3,661	3,844	4,036	4,238
5930	Senior Custodian	110	3,855	4,048	4,250	4,463	4,686
5860	Staff Analyst	200	4,589	4,818	5,059	5,312	5,578

CITY OF CLOVIS

CPSEA - Monthly Salary Schedule - July 1, 2020

Revised 7/1/2020

2 % Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
5076	Animal Control Officer	330	4,321	4,537	4,764	5,002	5,252
5081	Animal Services Aide	090	3,321	3,487	3,661	3,844	4,036
5301	Community Service Officer	460	4,846	5,088	5,342	5,609	5,889
5356	Crime Specialist	600	6,019	6,320	6,636	6,968	7,316
5481	Digital Forensic Analyst	760	7,049	7,401	7,771	8,160	8,568
5553	Fire Code Compliance Officer	650	6,448	6,770	7,109	7,464	7,837
5557	Fire Prevention Officer	550	5,299	5,564	5,842	6,134	6,441
5663	Lead Police Service Officer	565	5,701	5,986	6,285	6,599	6,929
5786	Police Service Officer	450	4,977	5,226	5,487	5,761	6,049
5809	Property and Evidence Technician	350	4,517	4,743	4,980	5,229	5,490
5558	Senior Fire Prevention Officer	560	5,902	6,197	6,507	6,832	7,174
5976	Senior Property/Evidence Technician	440	4,944	5,191	5,451	5,724	6,010
5979	Senior Systems Video Analyst	760	7,049	7,401	7,771	8,160	8,568
5981	Systems Video Technician	390	4,404	4,624	4,855	5,098	5,353

CITY OF CLOVIS
CPTA - Monthly Salary Schedule - July 1, 2020

Revised 7/1/2020

2% Salary Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
5126	Assistant Planner	570	5,867	6,160	6,468	6,791	7,131
5151	Associate Planner	650	6,625	6,956	7,304	7,669	8,052
5176	Building Inspector	610	5,923	6,219	6,530	6,857	7,200
5161	Business Workflow Analyst	760	7,049	7,401	7,771	8,160	8,568
5162	Business Workflow Specialist	555	5,352	5,620	5,901	6,196	6,506
5230	Civil Engineer	660	7,957	8,355	8,773	9,212	9,673
5627	Engineer I	640	6,534	6,861	7,204	7,564	7,942
5105	Engineer II	750	7,380	7,749	8,136	8,543	8,970
5526	Engineering Inspector	590	5,900	6,195	6,505	6,830	7,172
5551	Engineering Technician	450	4,830	5,072	5,326	5,592	5,872
5561	Geographic Info Sys Analyst	630	6,409	6,729	7,065	7,418	7,789
5564	Geographic Info Sys Specialist	555	5,352	5,620	5,901	6,196	6,506
5566	Geographic Info Sys Technician	390	4,404	4,624	4,855	5,098	5,353
5576	Housing Program Coordinator	780	7,235	7,597	7,977	8,376	8,795
5681	Permit Technician	355	4,486	4,710	4,946	5,193	5,453
5726	Planning Technician I	370	4,403	4,623	4,854	5,097	5,352
5751	Planning Technician II	530	5,018	5,269	5,532	5,809	6,099
5776	Plans Examiner	590	5,900	6,195	6,505	6,830	7,172
5901	Senior Building Inspector	690	6,691	7,026	7,377	7,746	8,133
5936	Senior Engineering Inspector	670	6,666	6,999	7,349	7,716	8,102
5951	Senior Engineering Technician	560	5,459	5,732	6,019	6,320	6,636

CITY OF CLOVIS
CTFP - Monthly Salary Schedule - July 1, 2020

Revised 7/1/2020

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
5027	Accountant	710	6,727	7,063	7,416	7,787	8,176
5592	Information Technology Analyst	630	6,409	6,729	7,065	7,418	7,789
5594	Information Technology Specialist	555	5,352	5,620	5,901	6,196	6,506
5597	Information Technology Technician	390	4,577	4,806	5,046	5,298	5,563
5847	Senior Accountant	770	7,064	7,417	7,788	8,177	8,586
5857	Senior Accounting Systems Technician	560	5,459	5,732	6,019	6,320	6,636
5962	Senior Information Technology Analyst	760	7,602	7,982	8,381	8,800	9,240

CITY OF CLOVIS

TEBU - Monthly Salary Schedule - July 1, 2020

Revised 7/1/2020

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
5201	Bus Driver	150	3,551	3,729	3,915	4,111	4,317
5661	Lead Bus Driver	190	4,189	4,398	4,618	4,849	5,091
5986	Transit Dispatcher	250	4,260	4,473	4,697	4,932	5,179

CITY OF CLOVIS
MANAGEMENT (MSC) - Monthly Salary Schedule - July 1, 2020

Unit 6

AGENDA ITEM NO. 5.

7/1/2020

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
6010	Accounting Supervisor	220	7,721	8,107	8,512	8,938	9,385
6020	= Assistant City Manager/City Clerk	820	13,626	14,307	15,022	15,773	16,562
6100	Assist. Dir. Of Planning and Develop.	670	11,564	12,142	12,749	13,386	14,055
6050	Assistant Finance Director	640	11,230	11,792	12,382	13,001	13,651
6670	Assistant Public Utilities Director	670	11,564	12,142	12,749	13,386	14,055
6365	Battalion Chief	610	10,619	11,150	11,708	12,293	12,908
6150	Building Official	520	10,296	10,811	11,352	11,920	12,516
6220	Business Development Manager	280	8,504	8,929	9,375	9,844	10,336
6120	City Engineer	640	11,230	11,792	12,382	13,001	13,651
6160	= City Manager	899	17,888	18,782	19,721	20,707	21,742
6780	City Planner	520	10,296	10,811	11,352	11,920	12,516
6180	Communications Supervisor	220	7,721	8,107	8,512	8,938	9,385
6270	= Community & Economic Develop. Director	700	12,781	13,420	14,091	14,796	15,536
6225	Construction Manager	250	8,419	8,840	9,282	9,746	10,233
6228	Crime Analysis Supervisor	220	7,721	8,107	8,512	8,938	9,385
6145	Deputy Building Official/Plan Checker	385	8,897	9,342	9,809	10,299	10,814
6430	= Deputy City Manager	850	11,010	11,561	12,139	12,746	13,383
6230	Deputy City Planner	400	9,203	9,663	10,146	10,653	11,186
6240	Deputy Finance Director	580	10,743	11,280	11,844	12,436	13,058
6368	Deputy Fire Chief	680	11,608	12,188	12,797	13,437	14,109
6580	Deputy Police Chief	650	12,430	13,052	13,705	14,390	15,110
6540	= Director of Planning & Development Serv	700	12,781	13,420	14,091	14,796	15,536
6255	Engineering Program Supervisor	220	7,721	8,107	8,512	8,938	9,385
6250	Executive Assistant	160	6,790	7,130	7,487	7,861	8,254
6235	Facilities Maint & Purchasing Manager	385	8,897	9,342	9,809	10,299	10,814
6280	Facilities Maintenance Supervisor	220	7,721	8,107	8,512	8,938	9,385
6330	= Finance Director	700	12,781	13,420	14,091	14,796	15,536
6385	= Fire Chief	730	12,833	13,475	14,149	14,856	15,599
6395	Fleet Manager	250	8,419	8,840	9,282	9,746	10,233
6410	= General Services Director	700	12,781	13,420	14,091	14,796	15,536
6411	General Services Manager	460	9,930	10,427	10,948	11,495	12,070
6436	Information Technology Manager	460	9,930	10,427	10,948	11,495	12,070
6438	Information Technology Supervisor	230	8,580	9,009	9,459	9,932	10,429
6420	Management Analyst	190	6,988	7,337	7,704	8,089	8,493
6445	Parks Manager	250	8,419	8,840	9,282	9,746	10,233
6470	Personnel/Risk Manager	550	10,329	10,845	11,387	11,956	12,554
6480	Personnel Technician	100	5,472	5,746	6,033	6,335	6,652
6520	Plan/Develop Administrative Manager	270	8,502	8,927	9,373	9,842	10,334
6570	Police Captain	670	11,564	12,142	12,749	13,386	14,055
6600	= Police Chief	820	13,626	14,307	15,022	15,773	16,562
6630	Police Lieutenant	625	10,873	11,417	11,988	12,587	13,216
6645	Police Services Manager	460	9,930	10,427	10,948	11,495	12,070
6650	Property & Evidence Supervisor	220	7,721	8,107	8,512	8,938	9,385
6673	Public Affairs & Information Supervisor	220	7,721	8,107	8,512	8,938	9,385
6675	Public Information Officer	195	7,200	7,560	7,938	8,335	8,752
6680	= Public Utilities Director	790	13,386	14,055	14,758	15,496	16,271
6720	Records Supervisor	220	7,721	8,107	8,512	8,938	9,385
6730	Recreation Coordinator	130	5,807	6,097	6,402	6,722	7,058
6743	Recreation Supervisor	220	7,721	8,107	8,512	8,938	9,385
6790	Senior Planner	280	8,504	8,929	9,375	9,844	10,336
6835	Solid Waste Manager	270	8,502	8,927	9,373	9,842	10,334
6825	Special Projects and Life Safety Mgr	420	9,973	10,472	10,996	11,546	12,123

CITY OF CLOVIS
MANAGEMENT (MSC) - Monthly Salary Schedule - July 1, 2020

Unit 6

AGENDA ITEM NO. 5.

7/1/2020

2% Wage Increase

Code	Position	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
6845	Street Maintenance Manager	250	8,419	8,840	9,282	9,746	10,233
6095	Supervising Civil Engineer	370	8,884	9,328	9,794	10,284	10,798
6850	Supervisor of Animal Services	220	7,721	8,107	8,512	8,938	9,385
6885	Transit Supervisor	220	7,721	8,107	8,512	8,938	9,385
6895	Utilities Manager	260	8,843	9,285	9,749	10,236	10,748
6950	Water Production Manager	260	8,843	9,285	9,749	10,236	10,748

* New Position / = Executive Management

EXHIBIT C

Clovis Sewer Monthly Charges

Residential Rates	7/1/20
SFR per unit	\$22.11
MFR & Mobile Home per unit	\$17.17
Pretreatment per residential unit	\$0.06
Sewer Bond Charge per residential unit	\$7.30
Rebate (2020-21) per residential unit	(\$7.30)
School Rates	
Elementary school per student	\$8.24
Middle school per student	\$12.14
High school per student	\$16.22
College per student	\$3.78
Pretreatment per school connection	\$3.95
Commercial Rates	
Low per 1,000 gallons	\$2.86
Medium per 1,000 gallons	\$3.22
High (markets, convenience, mortuaries)	\$6.84
High (bakeries, ice cream, restaurant, hotels)	\$6.80
Industrial Rates	
Low - per 1,000 gallons	\$2.86
High - per 1,000 gallons	\$2.299
High – per lb BOD	\$0.327
High - per lb SS	\$0.353
Minimum commercial or industrial flow charge per account	\$17.17
Pretreatment charge per commercial or industrial unit	
Category I	\$27.54
Category II	\$4.05
Category III	\$1.29
Sewer Bond Charge per school, commercial or industrial connection	\$7.30
Rebate per school, commercial or industrial connection	(\$7.30)

Residential Curbside Refuse Rates:

Basic Service (96-gallon)	\$25.06
Basic Service (48-gallon)	\$23.81
Additional Service (96-gallon)	\$12.54

Residential Recycling Rates:

Basic Service (96-gallon)	\$4.10
Additional Service (96-gallon)	\$4.10

Residential Curbside Greenwaste Rates:

Basic Service (96-gallon)	\$6.01
Additional Service (96-gallon)	\$6.01

Commercial Refuse Rates:

1-yard commercial bin service:

No. of bins:	Once a week	Twice a week	Three times a week	Four times a week	Five times a week	Six times a week
1	\$70.57	\$141.14	\$211.70	\$282.10	\$352.85	\$423.07
2	\$155.25	\$282.10	\$423.07	\$564.21	\$705.35	\$846.31
3	\$232.89	\$423.07	\$634.78	\$846.31	\$1,057.85	\$1,269.56
4	\$282.10	\$564.21	\$846.31	\$1,128.59	\$1,410.70	\$1,692.80
5	\$352.85	\$705.35	\$1,057.84	\$1,410.69	\$1,763.18	\$2,116.05

2-yard commercial bin service:

No. of bins:	Once a week	Twice a week	Three times a week	Four times a week	Five times a week	Six times a week
1	\$123.57	\$246.82	\$370.40	\$493.81	\$617.04	\$740.45
2	\$246.82	\$493.81	\$740.45	\$987.62	\$1,234.44	\$1,481.26
3	\$370.40	\$740.45	\$1,110.87	\$1,481.26	\$1,851.31	\$2,221.73
4	\$493.81	\$987.62	\$1,481.26	\$1,974.91	\$2,468.71	\$2,962.36
5	\$618.61	\$1,234.44	\$1,851.31	\$2,468.71	\$3,085.76	\$3,702.99

3-yard commercial bin service:

No. of bins:	Once a week	Twice a week	Three times a week	Four times a week	Five times a week	Six times a week
1	\$183.38	\$366.76	\$550.31	\$733.68	\$917.05	\$1,100.08
2	\$366.76	\$733.68	\$1,100.08	\$1,466.49	\$1,833.77	\$2,200.52
3	\$655.98	\$1,100.08	\$1,574.94	\$2,200.52	\$2,750.40	\$3,301.13
4	\$733.68	\$1,467.01	\$2,200.52	\$2,934.19	\$3,667.70	\$4,401.38
5	\$917.05	\$1,833.77	\$2,750.82	\$3,667.70	\$4,584.58	\$5,501.46

Additional Service (extra bin):	\$35.91
Commercial Can Service:	\$35.24

EXHIBIT E

Clovis Water Rates Bi-Monthly		
	7/1/2020	7/1/2020
	Non-drought	Drought
Residential		
Dwelling Unit Charge	\$23.90	\$23.90
Water Use		
Tier 1 (0-23) (\$/kgal)	\$0.98	\$1.16
Tier 2 (23-40) (\$/kgal)	\$1.63	\$2.36
Tier 3 (40+) (\$/kgal)	\$2.00	\$2.99
Tarpey Unmetered (65kgal)-(63kgal)		
Tarpey Large Lot	\$5.76	\$5.76
Tarpey Excess Use Charges (\$/kgal)	\$2.00	\$2.80
Commercial		
1" or smaller	\$19.24	\$19.24
1 1/2"	\$25.59	\$25.59
2"	\$35.34	\$35.34
3"	\$69.99	\$69.99
4"	\$176.05	\$176.05
6"	\$702.21	\$702.21
8"	\$1,244.77	\$1,244.77
10"	\$1,950.10	\$1,950.10
Commercial Water Use		
Tier 1 (0-23) (\$/kgal)	\$0.98	\$1.16
Tier 2 (23+) (\$/kgal)	\$1.33	\$1.57
Recycled Water		
2"	\$35.34	\$35.34
3"	\$69.99	\$69.99
4"	\$176.05	\$176.05
6"	\$702.21	\$702.21
8"	\$1,244.77	\$1,244.77
10"	\$1,950.10	\$1,950.10
Recycled Water Use (\$/kgal)		
Recycled Water Use (\$/kgal)	\$0.61	\$0.64
Construction Water	\$119.95	\$149.35



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council
 FROM: Police Department
 DATE: June 1, 2020
 SUBJECT: Consider - A Request to Initiate an Ordinance Amendment to Amend Title 6 of the Clovis Municipal Code to Allow for Backyard Chickens.

Staff: George Rodriguez, Police Services Manager
Recommendation: Consider and provide staff direction

CONFLICT OF INTEREST

None

RECOMMENDATION

For the Council to provide direction to City staff regarding a request to modify the current City of Clovis Municipal Code which currently prohibits backyard chickens in the City of Clovis.

EXECUTIVE SUMMARY

On May 11, 2020, during council comments, Councilmember Whalen requested staff evaluate amending the city's current ordinance banning chickens in the city limits. Animal Services Division has prepared a brief report on this topic for Council discussion and consideration. Staff will be looking for direction from Council to return with an ordinance amendment that would allow backyard chickens using certain constraints.

BACKGROUND

The request to allow backyard chickens has come to staff and Council a few times over the past ten years. Historically, the Animal Services Division has recommended against the allowance due to noise, odor, and increased calls for service.

Many urban cities in California currently allow backyard chickens. Some cities in the central San Joaquin Valley already allow the chickens, including Woodlake, Lindsay, Farmersville and Madera. Most cities either prohibit them or have limited exceptions, including Fresno, Clovis, Selma, Reedley, Tulare, Hanford and Lemoore. In 2015 the Visalia City Council denied a request to amend the ordinance to allow backyard chickens with a 3-2 vote. Most concerns raised regard odor, noise, and not requiring chicken coops.

Advocates for backyard chickens generally cite the following positive benefits: chickens produce eggs for human consumption, they create natural fertilizer for the yard, they help maintain weeds and pests, they make good pets and they are relatively easy to maintain. Some of the drawbacks to having backyard chickens include: noise, bad odor from chicken droppings, complaints from neighbors, disease, and the disposal of dead chickens.

Cities that allow backyard chickens seem to allow from three to six chickens in a residential area, do not allow roosters and require some type of enclosure for shelter. If Council directs staff to move forward to amend the ordinance and allow backyard chickens, staff will evaluate ways to successfully allow backyard chickens in single family residential neighborhoods, limiting the number, minimum lot size, cleanliness, safety of animals, not allowing roosters, etc.

FISCAL IMPACT

If calls for service significantly increase for backyard chickens there would be additional staff time involved.

REASON FOR RECOMMENDATION

The City Council requested that this matter be brought back for further discussion and direction.

ACTIONS FOLLOWING APPROVAL

Staff will meet to discuss amendments to the Clovis Municipal Code with regard to allowing backyard chickens.

Prepared by: George Rodriguez, Police Services Manager

Reviewed by: City Manager *GR*



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: June 1, 2020

SUBJECT: Consider Approval - Letter of Support for SB 1386 (Moorlach):
Protecting Fire Hydrant System Funding.

Staff: Luke Serpa, City Manager

Recommendation: Approve

ATTACHMENTS: 1. Legislative Analyst Review dated May 21, 2020
2. Draft Letter of Support

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve a letter of support for SB 1386 (Moorlach): Protecting Fire Hydrant System Funding.

EXECUTIVE SUMMARY

Water agencies, like the City of Clovis, that own and operate fire hydrant systems are facing recently filed lawsuits that seek to eliminate their ability to charge the residents and businesses they serve for the costs associated with the fire hydrant systems. Senate Bill 1386 will protect fire hydrant system funding - while preventing additional cost and financial burdens to individual fire departments.

BACKGROUND

Lawsuits have been filed against 81 water suppliers (including Clovis) throughout California, calling into question their ability to lawfully and appropriately charge residents and businesses for the costs of water supplies used during fire protection services and for the costs associated with the fire hydrants the water supplier owns and maintains within the community.

If such legal challenges were to succeed, water suppliers would likely be required to charge fire protection agencies for these costs, which would be necessary for a water supplier to

continue to support the hydrant systems. This would impact fire protection agencies' ability to fund critically needed equipment and personnel.

Most water agencies, whether cities, counties, or special districts, that serve retail customers use ratepayer funds to pay for fire hydrants, the extra capacity needed for emergency fire flows, and the water used in fighting a fire that is dispensed from a hydrant, as authorized in statute. The Legislature enacted this authority in 1973—prior to the passage of Proposition 218. On February 19, 2020, a class action lawsuit was filed against 81 water agencies throughout the state alleging that their practice of charging ratepayers for the costs associated with supplying water for fire protection violates Proposition 218. Specifically, the complaint argues that this practice results in water agencies charging ratepayers for more than the cost of service to their parcel and imposes costs on property owners for general governmental services that are available to the public at large in substantially the same manner as they are available to property owners.

The Irvine Ranch Water District and the San Diego County Water Authority sponsored legislation to amend the Proposition 218 Omnibus Implementation Act to clarify that water service includes adequate capacity to serve demands during firefighting and the water associated with firefighting.

FISCAL IMPACT

If SB 1386 is signed into law, the law suit against the 81 agencies would likely go away, and Fire Departments would not be charged the monies associated with the lawsuit.

REASON FOR RECOMMENDATION

Support and approval of SB 1386 would protect fire hydrant system funding - while preventing additional cost and financial burdens to the Fire Department.

ACTIONS FOLLOWING APPROVAL

If approved, staff will complete the letter of support and mail off.

Prepared by: John Holt, Assistant City Manager

Reviewed by: City Manager *JH*

THIRD READING

Bill No: SB 1386
Author: Moorlach (R)
Amended: 4/1/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SUBJECT: Local government: assessments, fees, and charges: water

SOURCE: Irvine Ranch Water District
San Diego County Water Authority

DIGEST: This bill provides that fire hydrants are a part of water service for the purposes of Proposition 218.

ANALYSIS:

Existing law:

- 1) Imposes constitutional limits on local officials' ability to impose, increase, and extend fees, including property-related fees (Proposition 218, 1996).
- 2) Defines a property-related fee as any levy other than an *ad valorem* tax, a special tax, or an assessment imposed by an agency on a parcel or on a person as an incident of property ownership, including a user fee for a property-related service.
- 3) Specifies definitions and procedures related to Proposition 218 in the Proposition 218 Omnibus Implementation Act (SB 919, Rainey, 1997). The Act requires local officials to, before imposing a new property related fee or increase an existing one:
 - a) Identify the parcels to be charged.
 - b) Calculate the fee for each parcel.

- c) Notify the parcels' owners in writing about the fees and the hearing.
 - d) Hold a public hearing to consider and count protests.
 - e) Abandon the fees if a majority of the parcels' owners protest.
- 4) Requires new or increased property-related fees to:
 - a) Be less than the proportional cost of service to each parcel.
 - b) Receive approval by a majority-vote of the affected property owners, two-thirds registered voter approval, or weighted ballot approval by the affected property owners.
 - 5) Exempts property-related fees for water, sewer, and refuse collection from the voter approval requirements of Proposition 218.
 - 6) Defines water to mean, "any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source."
 - 7) Allows a water agency to charge a fee to pay the costs of constructing, operating, and maintaining facilities and equipment related to supplying water for fire protection purposes.
 - 8) Allows water agencies can charge this fee to any entity, except for fire agencies unless the two agencies sign a written agreement.

This bill:

- 1) Amends the definition of "water" in the Proposition 218 Omnibus Implementation Act to include the public fixtures, appliances, and appurtenances connected to a water system.
- 2) Includes findings and declarations that state that:
 - a) The provision of fire service is a separate and distinct category of service from water service.
 - b) Water dispensed through a fire hydrant is a property-related water service provided to all property owners as an incident of property ownership, and there are service costs for this water to protect real property.

- c) Fire hydrants are a part of a water system, provide an immediately available water supply to extinguish fires that threaten structures and improvements, and are not available to the public at large in substantially the same manner as they are to property owners.
- 3) Provides that, to the extent consistent with Proposition 218, fees or charges for property-related water service may include the costs to construct, maintain, repair, or replace public hydrants attached to a water system and the cost of water dispensed through public hydrants.
- 4) Allows the fee or charge may be fixed and collected consistent with Proposition 218 and the Proposition 218 Omnibus Implementation Act.
- 5) States that it is declaratory of existing law.

Background

Most water agencies, whether cities, counties, or special districts, that serve retail customers use ratepayer funds to pay for fire hydrants, the extra capacity needed for emergency fire flows, and the water used in fighting a fire that is dispensed from a hydrant, as authorized in statute. The Legislature enacted this authority in 1973—prior to the passage of Proposition 218. On February 19, 2020, a class action lawsuit was filed against 81 water agencies throughout the state alleging that their practice of charging ratepayers for the costs associated with supplying water for fire protection violates Proposition 218. Specifically, the complaint argues that this practice results in water agencies charging ratepayers for more than the cost of service to their parcel and imposes costs on property owners for general governmental services that are available to the public at large in substantially the same manner as they are available to property owners.

The Irvine Ranch Water District and the San Diego County Water Authority wants the Legislature to amend the Proposition 218 Omnibus Implementation Act to clarify that water service includes adequate capacity to serve demands during firefighting and the water associated with firefighting.

Comments

- 1) *Purpose of the bill.* According to the author, “SB 1386 is patterned after a recent unpublished case - *Glendale Coalition for Better Gov’t v. City of Glendale* (2018) - where the court effectively reaffirmed the appropriateness of current charges by stating that fire hydrants used to protect properties from fire and costs associated with them are in fact property-related services and therefore allowable under Proposition 218. The bill is an important measure

that can be enacted to protect fire hydrant system funding that would not increase water rates because the costs of fire hydrant system maintenance and operation are already appropriately embedded in customers' water rates, as permitted by existing law.”

- 2) *Fire and water*. At the heart of the lawsuit that has spawned SB 1386 are two questions: (a) are fire hydrants and the water that comes out of them an element of water service or of fire service, and (b) who benefits from the having fire hydrants available for use? The plaintiffs take the position that water and the related infrastructure used in the course of firefighting is a part of providing fire service and is available in the same manner to both property owners and the public. Therefore, charging property owners for those costs impermissibly charges ratepayers for general governmental services. Water agencies see it differently: they argue that the benefit of fire hydrants accrues to the property owners because hydrants are positioned and used to fight structure fires, not wildland or other types of fires that are unrelated to a specific property. One recent court decision agrees with the water agencies (*Glendale Coalition for Better Gov't v. City of Glendale*, 2018 Cal. App. Unpub. LEXIS 8783). The Second District Court of Appeals stated:

...despite the nomenclature, ‘public fire protection’ is not generally available to the public at large in substantially the same manner as it is to the property owners who pay the fee. The general public does not have access to water through fire hydrants. ... Fire hydrants are required to protect subdivisions, buildings, and portions of buildings within City limits. Common sense dictates that fire hydrants are located and available to extinguish fires that threaten property damage. ... Although fire departments could conceivably use any available measure to extinguish a fire unrelated to real property, including hydrant water in the absence of an alternative, hydrants are not located, designed, or intended for all fires that happen to occur in public places, and the water pressure is excessive. ... We conclude: the public fire protection fee provided through hydrants is not a service available to the general public in substantially the same manner as it is to the property owners who pay the fee. Charging the fire protection fee to property owners, therefore, did not violate article XIII D, section 6, of the California Constitution.

SB 1386 borrows heavily from this ruling in an attempt to codify the water agency position, affirming that fire hydrants are a component of water service.

The Legislature may wish to consider whether fire hydrants are a component of water service or more closely connected to the provision of fire service.

- 3) *Easy way out?* There is one clear way of complying with the plaintiff's interpretation of Proposition 218's requirements: water agencies could charge fire agencies for the costs of the facilities that deliver water for firefighting. But this solution isn't as simple as it appears. Proposition 218 grants special status to water service over other types of services: fees for water service don't need voter approval, while nearly all other property-related fees and all taxes do. If fire agencies were required to pay the costs of the infrastructure used to suppress fires, they would have to find the money by securing voter approval for a tax or assessment at the ballot or cut other services. Given the current economic climate, the electorate may not look favorably on new taxes, and local agencies are already considering deep cuts to services to make up for lost revenue. SB 1386 helps maintain service levels by allowing water agencies to continue to spread the cost over their ratepayer base without needing a vote of the people to increase taxes.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 5/22/20)

Irvine Ranch Water District (co-source)
 San Diego County Water Authority (co-source)
 Association of California Cities, Orange County Chapter
 Association of California Water Agencies
 California Fire Chiefs Association
 California Municipal Utilities Association
 California Professional Firefighters
 California Special Districts Association
 California State Firefighters Association
 California Water Association
 California Water Service
 City of Escondido
 City of Fountain Valley
 City of Fullerton
 City of Oceanside
 City of Pasadena
 City of Poway
 City of Santa Rosa
 City of Torrance

City of Whittier
Coachella Valley Water District
Cucamonga Valley Water District
East Bay Municipal Utility District
Eastern Municipal Water District
El Toro Water District
Elsinore Valley Municipal Water District
Fire Districts Association of California
Helix Water District
Las Virgenes Municipal Water District
Otay Water District
Padre Dam Municipal Water District
Rainbow Municipal Water District
Regional Water Authority
San Francisco Public Utilities Commission
Santa Ana Public Works Agency
Santa Clarita Valley Water Agency
Santa Margarita Water District
Trabuco Canyon Water District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District

OPPOSITION: (Verified 5/22/20)

None received

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
5/22/20 14:07:45

**** **END** ****



May 5, 2020

The Honorable John M.W. Moorlach
 Senator, 37th District
 State Capitol, Room 2048
 Sacramento, CA 95814

RE: SB 1386 (Moorlach): Protecting Fire Hydrant System Funding- Support

Dear Senator Moorlach:

We, the undersigned coalition of statewide associations, cities, water suppliers and regional stakeholders, are writing to express our support for SB 1386 and to thank you for authoring this important measure which would protect fire hydrant system funding and ensure public water suppliers are able to operate sufficiently sized and pressurized water system to supply water to their customers

and to fight fires. This measure affirms that existing law allows water suppliers to include the costs of operating and maintaining these systems, as well as the costs associated with fire hydrant and the water served through them, in their property-related service charges. Because of lawsuits that threaten California water providers' ability to fund water services used in fire protection, this measure is critical to preventing these costs from being passed on to fire protection agencies.

Our cities and water agencies are some of the 81 local governments being sued to challenge the long-standing method of funding water service used in firefighting through property-related water service charges. The lawsuits allege that including these costs in our water rates is prohibited by Article XIII D of the California Constitution (i.e. "Proposition 218").

In our opinion, these lawsuits are without merit and threaten to force all of California's public retail water service providers to charge fire protection agencies directly for these costs. If that occurs, the ability of fire protection agencies to fund essential equipment and personnel would be greatly impacted. Our property-related service charges are legitimate under existing law, but in order to avoid lengthy and expensive legal battles with costs that will be passed on to our customers and to avoid additional burdens on fire protection agencies, the law needs to be affirmed by the Legislature.

Proposition 218 placed provisions into the California Constitution that limit local governments' authority to impose and increase taxes, fees, assessments, and charges. We faithfully abide by the requirements of Proposition 218 and are serious about our responsibility to provide services to our customers in an efficient and cost-effective manner. Including the costs of operating and maintaining fire hydrant systems, as well as the costs associated with the water distribution system and the water that is needed to fight fires, within property-related water service charges is legitimate and appropriate under Proposition 218. Ensuring water rates cover these costs is critical for the safety of all of our customers.

SB 1386 reinforces our authority under the law to use property-related service charges for funding water services related to fire protection. SB 1386 does this by amending Proposition 218's implementing statute to reflect a recent court case that concluded that these costs are in fact a property-based service.

For these reasons, we strongly support your bill and urge your colleagues to vote "Aye" on SB 1386. Please do not hesitate to contact Christine Compton with the Irvine Ranch Water District (IRWD) at (949) 453-5338, Glenn Farrel with the San Diego County Water Authority (SDCWA) at (916) 216-1747, or either IRWD's Sacramento advocate Pilar Oñate-Quintana at (916) 230-4470 or SDCWA's Sacramento advocate Steve Cruz at (916) 307-7741 if you have questions regarding this measure.

Sincerely,

Association of California Cities, Orange County Chapter
Association of California Water Agencies
California Municipal Utilities Association
California Special Districts Association
California Water Association
California Water Service

The Honorable John M.W. Moorlach
Senator, 37th District
May 5, 2020
Page 3

City of Escondido
City of Fountain Valley
City of Oceanside
City of Pasadena
City of Poway
City of Santa Rosa
Coachella Valley Water District
Cucamonga Valley Water District
Eastern Municipal Water District
El Toro Water District
Elsinore Valley Municipal Water District
Helix Water District
Irvine Ranch Water District
Las Virgenes Municipal Water District
Otay Water District
Padre Dam Municipal Water District
Rainbow Municipal Water District
Regional Water Authority
San Diego County Water Authority
San Francisco Public Utilities Commission
Santa Ana Public Works Agency
Santa Margarita Water District
Trabuco Canyon Water District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: June 1, 2020

SUBJECT: Workshop – For the Clovis City Council to conduct a workshop to discuss the impact on ongoing City operations during the COVID-19 State of Emergency as declared by the Federal Government, State of California, County of Fresno, and City of Clovis; and to explore actions the City may take in response to the crisis.

a. Consider Approval – Res. 20-___, A Resolution adopting Emergency Order 2020–14, assisting restaurants severely impacted by the COVID-19 crisis by allowing restaurants the option to temporarily expand capacity into public and private common areas under specified circumstances.

Staff: Luke Serpa, City Manager

Recommendation: Approve

ATTACHMENTS: 1. Resolution 20-___, A Resolution Adopting Emergency Order 2020-14

CONFLICT OF INTEREST

None.

RECOMMENDATION

For the City Council to approve Res. 20-_____ adopting Emergency Order 2020–14, assisting restaurants severely impacted by the COVID-19 crisis by allowing restaurants with the option to temporarily expand capacity into public and private common areas under specified circumstances.

BACKGROUND

On March 16, 2020, the City Council approved the following:

1. A request from the Director of Emergency Services for the City of Clovis that the City Council of the City of Clovis proclaim the existence or threatened existence of a local emergency (COVID-19); and
2. A Resolution of the City Council of the City of Clovis proclaiming the existence or threatened existence of a local emergency (COVID-19).

On March 21, 2020, the City Council confirmed the Director of Emergency Services':

1. Order 2020-01: Declaration Closing Bars, Wineries, Breweries, Pubs, and Restaurants; and
2. Order 2020-02: Declaration Closing Gyms, Health Clubs, Trampoline Parks, Arcades, and Theaters; and
3. Order 2020-03: Declaration Establishing Emergency Telework Guidelines.

On March 30, 2020, the City Council confirmed the Director of Emergency Services':

1. Order 2020-04 pertaining to employee leave/pay during emergency determined as necessary to safeguard life and property and continue essential services of the City of Clovis; and
2. Order 2020-05 related to price gouging and taking unfair advantage of consumers.

On April 6, 2020, the City Council confirmed the Director of Emergency Services':

1. Order 2020-06 related to waiving late fees on business license payments and utility payments; and
2. Order 2020-07 related to waiving municipal code restrictions against parking a recreational vehicle under specific circumstances.

On April 13, 2020, the City Council confirmed the Director of Emergency Services':

1. Order 2020-08 related to suspension of employee vacation caps during the declared emergency; and
2. Order 2020-09 related to waiving transit fares during the declared emergency; and
3. Order 2020-04A, an addendum to 2020-04 relating to emergency leave/pay for use by all City of Clovis employees during the declared emergency; and

4. Order 2020-10 related to closing play structures, exercise apparatus, and picnic shelters at City-owned parks; and
5. Order 2020-11 related to local enforcement of Governor's Executive Order pertaining to the statewide stay at home requirements; and
6. Order 2020-12 relating to enforcement of local emergency orders.

On April 20, 2020, the City Council confirmed the Director of Emergency Services':

1. Order 2020-08A, an addendum to suspension of vacation cap order 2020-08 related to suspension of employee vacation caps during the declared emergency.

On May 4, 2020, the City Council approved an emergency order as follows:

1. Order 2020–13 in order to add clarity to the City's roles and responsibilities under the governor's stay at home order by: (1) repealing emergency orders 2020-01 (bars and restaurant closures), 2020-02 (gyms and places of amusement), and 2020-10 (City parks) as unnecessarily duplicative as the statewide stay at home order covers these and other items; and (2) clarifying the City's enforcement responsibilities.

Staff is now bringing forth an order for Council to adopt by resolution Emergency Order 2020–14 (Attachment 1), assisting restaurants severely impacted by the COVID-19 crisis by allowing restaurants the option to temporarily expand capacity into public and private common areas under specified circumstances.

FISCAL IMPACT

None

Prepared by: John Holt, Assistant City Manager

Reviewed by: City Manager *JH*

**CITY OF CLOVIS
RESOLUTION NO. 20- __
EMERGENCY ORDER 2020-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
ADOPTING EMERGENCY ORDER 2020 – 14, ASSISTING RESTAURANTS
SEVERELY IMPACTED BY THE COVID-19 CRISIS BY ALLOWING
RESTAURANTS THE OPTION TO TEMPORARILY EXPAND CAPACITY
INTO PUBLIC AND PRIVATE COMMON AREAS UNDER SPECIFIED
CIRCUMSTANCES**

WHEREAS, on March 16, 2020, the California Department of Public Health established guidelines for social distancing, elimination of non-essential gatherings, and isolation for specific individuals, in order to prevent the transmission of COVID-19 (“DPH Guidance”); and

WHEREAS, there exists a local emergency in the City of Clovis pursuant to Resolution 20-20, approved by the City Council on March 16, 2020, where the City declared a local emergency as a result of the threatened spread of COVID-19 in the City, surrounding areas, and the state; and

WHEREAS, on March 19, 2020, with the adoption of Executive Order N-33-20, the Governor ordered a Statewide stay at home/stay in place order (“Stay at Home Order”) to address the spread of COVID-19, allowing only essential businesses to remain open; and

WHEREAS, the City is operating under the Governor’s Stay at Home Order as supplemented by Fresno County; and

WHEREAS, the Governor and Fresno County have begun the process for allowing restaurants, retail establishments, and other businesses to reopen in the State; and

WHEREAS, the City has determined that there is a need, when feasible and safe, to assist local businesses most severely impacted by the restrictions on reopening; and

WHEREAS, restaurants are now allowed to reopen in accordance with State and County guidance, which requires physical separation (social distancing) and other actions, substantially reducing restaurant capacity; and

WHEREAS, restaurants play a vital role in the City of Clovis. They not only provide important tax revenue, but jobs and income to employees and owners. They are the anchors of communities and support tourism and the neighborhoods they are in; and

WHEREAS, restaurants will be challenged to remain profitable with the restrictions, and many will no doubt fail, and therefore it is in the City’s best interest to assist restaurants in expanding capacity where feasible and safe so as to lessen the chance of a restaurant failing; and

WHEREAS, one way the City can assist with restaurant capacity is to temporarily make available to restaurants the option of using public areas for outdoor dining and to otherwise temporarily waive regulations that prohibit dining in public and private common areas; and

WHEREAS, under the authority of Government Code sections 8610 and 8634, and Clovis Municipal Code section 4.2.06, the City’s Director of Emergency Services and the City Council are empowered, upon declaration of a local emergency, to make and issue regulations on matters reasonably related to the protection of life and property as affected by such emergency.

NOW, THEREFORE, the City Council of the City of Clovis resolves as follows:

IT IS HEREBY ORDERED, effective immediately upon adoption of this Resolution, that:

1. Notwithstanding anything to the contrary in the City’s zoning ordinances, development code, approved land use entitlements, site plan review approvals, or entertainment permits, all restaurants in the City as defined in Section 9.120.020 of the Municipal Code, are eligible during the City’s declared local emergency to apply for a temporary waiver allowing them to use public and private common areas for outdoor dining.

- a. Public common areas include sidewalks, streets, parking lots, recreation space, and other public space that might be conducive to outdoor dining.
- b. Private common areas include sidewalks, parking lots, recreation space, and other private space, generally within a private shopping center, that might be conducive to outdoor dining.

2. Eligible public and private common areas for outdoor dining shall be known as the “Expansion Area”. If the Expansion Area is approved, the approval shall be considered a temporary permit to operate outside dining in the Expansion Area and shall be officially termed a “Waiver”. A business owner wishing to apply for a Waiver shall meet the minimum requirements set forth in **Exhibit A**. The approval of a Waiver shall not be deemed to convey a property or vested right to operate contrary to City codes, standards, and permit requirements.

3. Waivers shall be approved in the discretion of, and may be revoked by, the Community and Economic Development Director (“Director”) in accordance with the criteria and procedures set forth in **Exhibit A**. The Director may impose any conditions deemed reasonably necessary to ensure the safe and lawful operation of outdoor dining in the Expansion Area. All Waivers shall automatically expire upon the lifting or expiration of the City’s declared local emergency, or upon earlier modification of this Order eliminating the Waiver.

4. The denial or revocation of a Waiver may be appealed to the City Manager, where the decision shall be final. Any appeal to the City Manager shall be an informal proceeding without the technical rules of evidence.

5. The City Manager is directed to develop supplemental guidelines for implementation of the Waiver program consistent with **Exhibit A**, which may be amended as often as needed as determined by the City Manager.

BE IT FURTHER ORDERED that this order shall remain in effect until such time as it is terminated, repealed, amended, or modified by the Director of Emergency Services or the City Council of the City of Clovis.

The forgoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on June 1, 2020, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date: June 1, 2020

Drew Bessinger, Mayor

ATTEST:

John Holt, City Clerk

**EMERGENCY ORDER 2020-14
EXHIBIT A**

**MINIMUM REQUIREMENTS AND PROCEDURES FOR RESTAURANTS
SEEKING A WAIVER TO EXPAND CAPACITY BY USING COMMON
AREAS FOR OUTDOOR DINING**

The following requirements and procedures shall apply for any restaurant wishing to seek a Waiver to allow outdoor dining in public and private common areas, as defined in this Order.

1. The business owner shall complete an application on a form prescribed by the City Manager. No fee will be required for the application. The applicant is encouraged to consult with the Director prior to completing the application. The application shall include the following:
 - a. For private shopping centers, a letter of consent, or other evidence satisfactory to the Director, that the shopping center owner has consented to use of the Expansion Area for outdoor dining.
 - b. A diagram showing the proposed foot print of the Expansion Area. The diagram shall include the proposed location of dining tables, furniture, other restaurant features, fencing (ornamental or safety), awnings (or other shade structures), misters, heaters, ground cover (if desired), entry and exiting, and Americans with Disabilities Act (“ADA”) paths of travel.
 - c. For public areas, liability waivers and certificates of insurance as required by the City’s Risk Manager and City Attorney. When appropriate, the Director may require a Sidewalk Permit or Encroachment Permit. There shall be no fee for a Sidewalk or Encroachment Permit issued under this Order.
 - d. Where parking spaces are proposed to be removed, a parking plan showing where employees and customers will park and how impacts to other businesses, if any, will be addressed.
 - e. Where parking lots or public streets are proposed to be used, a safety and traffic control plan showing how employees and customers will be protected from vehicle traffic, including the use of barricades.
 - f. Any other matter determined necessary by the Director to make a decision.
2. The Expansion Area shall be limited to area(s) adjacent to the existing business, and in no event shall allow restaurant capacity, with the implementation of required social distancing measures, to exceed 100% of normal capacity.
3. All structures, entry and existing, paths of travel, and safety features shall be approved by City’s Building and Fire Departments. For public common areas, approval shall also be obtained from the Public Utilities Department.

4. If the restaurant intends to serve alcohol in the Expansion Area, the restaurant owner shall obtain all required Alcoholic Beverage Control (“ABC”) approvals as well as approval from the Clovis Police Department.
5. The restaurant owner, restaurant manager, and any other responsible person, shall keep the Expansion Area free of litter and debris. This cleaning shall consist of, at a minimum, regularly sweeping and washing the Expansion Area. In addition, the restaurant owner shall be responsible for regularly removing any trash generated by the business within 100 feet of the business.
6. Waivers may be revoked by the Director for: (a) violations of this Order, Supplemental Guidelines issued by the City Manager, or any conditions of approval; or (b) if operation in the Expansion Area creates a nuisance. Prior to revocation, the Director shall provide written notice of the basis for revocation.
7. Any restaurant desiring to provide entertainment in the primary business or Expansion Area that would otherwise require an Entertainment Permit under Chapter 5.5 of the Municipal Code, shall make separate application under that Chapter. If the restaurant has an Entertainment Permit issued for the primary business, the restaurant shall not provide entertainment in the Expansion Area without an amendment to the Entertainment Permit authorizing that use.
8. The City shall have the right to immediately suspend the operation of an outdoor dining area operating under a Waiver at any time because of anticipated or actual problems or conflicts with ADA paths of travel or to protect the safety of employees and customers. The City shall attempt to work with the restaurant to solve any problems or conflicts.
9. Upon expiration or revocation of a Waiver, the restaurant shall remove all restaurant owned property and restore the Expansion Area to its prior condition, satisfactory to the City and/or private shopping center owner.
10. The City shall not be responsible for any liability or damages associated with issuance or revocation of a Waiver, or with the immediate suspension of outdoor dining as provided for under this Order, and the restaurant, its owners, affiliates, successors, and assigns, in accepting a Waiver agree to release, hold harmless, and defend the City from any such liability.



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council
 FROM: Administration
 DATE: June 1, 2020
 SUBJECT: Consider Approval – Change of Council Meeting Schedule.

Staff: Luke Serpa
Recommendation: Approve

CONFLICT OF INTEREST

None.

RECOMMENDATION

For the City Council to approve the cancellation of the regular Council meeting scheduled for Monday, June 8, 2020.

EXECUTIVE SUMMARY

There is a need to change the schedule of meetings for the City Council in June. Staff is recommending that City Council cancel the meeting of June 8, 2020.

BACKGROUND

Staff is able to consolidate the agenda items to the first and third meetings in June 2020. Staff is recommending that City Council consider canceling the meeting of June 8, 2020. Given adequate notice, staff will be able to amend the timing of actions coming forward so that operations will not be affected by the cancellation.

FISCAL IMPACT

None.

REASON FOR RECOMMENDATION

Pursuant to the Clovis Municipal Code, the City Council meets in regular session on the first, second, and third Monday of each month, except when those Mondays occur on a recognized City holiday. The City Council needs to confirm any change to the schedule of meetings in order to properly notice the public of the City Council's schedule of meetings.

ACTIONS FOLLOWING APPROVAL

A revised schedule of meetings will be published in conformance with law.

Prepared by: Jacquie Pronovost, Exec. Asst.

Submitted by: Luke Serpa, City Manager *LS*