



## OROVILLE PLANNING COMMISSION/ HISTORICAL ADVISORY COMMITTEE

Council Chambers  
1735 Montgomery Street  
Oroville, CA. 95965

**October 26, 2023  
REGULAR MEETING  
6:00 PM  
AGENDA**

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### PUBLIC ACCESS AND PARTICIPATION

To view the meeting or provide comment, please see the options below.

#### To Watch or Listen to the Meeting:

1. Watch live feed <https://www.youtube.com/channel/UCAoRW34swYI85UBfYqT7IbQ/>
2. Zoom <https://zoom.us/j/99508232402?pwd=aThZc1BsUG9sWnhNYnlwZHZZdFFrQT09>  
Meeting ID: 995 0823 2402 Passcode: 17351735
3. Listen via telephone: 1-669-900-9128  
Meeting ID: 995 0823 2402 Passcode: 17351735

#### To Provide Comments:

1. Email before the meeting by 2:00 PM your comments to [publiccomment@cityoforoville.org](mailto:publiccomment@cityoforoville.org)
2. Attend in person

**If you would like to address the Commission at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, please submit the form prior to the conclusion of the staff presentation for that item. The Commission has established time limitations of three (3) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for non-agenda items, the time limitation would be reduced to one and a half minutes per speaker. **(California Government Code §54954.3(b)).** Pursuant to Government Code Section 54954.2, the Commission is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.**

### CALL TO ORDER / ROLL CALL

Commissioners: Glenn Arace, Marissa Hallen, Natalie Sheard, Warren Jensen, Terry Smith,  
Vice Chairperson Wyatt Jenkins, Chairperson Carl Durling

### OPEN SESSION

Pledge of Allegiance

## **PUBLIC COMMUNICATION - HEARING OF NON-AGENDA ITEMS**

This is the time to address the Commission about any item not listed on the agenda. If you wish to address the Commission on an item listed on the agenda, please follow the directions listed above.

## **CONSENT CALENDAR**

No Consent Calendar items this meeting.

## **PUBLIC HEARINGS**

The Public Hearing Procedure is as follows:

- Mayor or Chairperson opens the public hearing.
- Staff presents and answers questions from Council
- The hearing is opened for public comment limited to two (2) minutes per speaker. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3, the time for each presentation may be limited.
- Public comment session is closed
- Commission debate and action

### **1. The Oroville Rescue Mission - Establishment of a Homeless Shelter**

RE: Use Permit UP23-010

The Oroville Rescue Mission proposes to establish a homeless shelter on a 1.8 acre site at 4248 Lincoln Blvd. The proposal would provide 35 'Pallet' shelters for up to 70 individuals, a 40-bed dormitory in an existing warehouse, and spaces for both tents and RV parking.

ACTION REQUESTED -

CONDUCT A PUBLIC HEARING ON THE PROPOSED PROJECT;

ADOPT THE NOTICE OF EXEMPTION AS THE APPROPRIATE LEVEL OF ENVIRONMENTAL REVIEW IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA);

ADOPT THE RECOMMENDED FINDINGS FOR USE PERMIT NO. UP23-010;

APPROVE USE PERMIT UP23-010 AND RECOMMENDED CONDITIONS OF APPROVAL;

ADOPT RESOLUTION NO. P2023-22

**2. Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)**

The Planning Commission will consider recommending that the City Council adopt ZC 23-03, amending the City's oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City's tree removal permit requirements.

ACTION REQUESTED -

CONDUCT A PUBLIC HEARING ON THE PROPOSED ZONING CODE AMENDMENT.

ADOPT RESOLUTION NO. 2023-20 RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING SECTIONS 17.12.060, 17.12.065, AND 17.48.070 OF THE OMC

**3. Continuation of Hearing for Draft Food Truck Court Ordinance**

Staff is continuing to work with involved parties on this item and is making refinements to a Draft Ordinance for the Commission's consideration.

ACTION REQUESTED -

OPEN THE PUBLIC HEARING FOR THIS AGENDA ITEM AND CONTINUE THE MATTER TO THE NOVEMBER 16, 2023 CITY OF OROVILLE PLANNING COMMISSION MEETING.

**4. Ruddy Creek Subdivision Tentative Map Extension #1**

The Oroville Planning Commission may consider extending approval of the existing Tentative Subdivision Map for Ruddy Creek to December 17, 2025.

ACTIONS REQUESTED -

CONDUCT A PUBLIC HEARING TO CONSIDER EXTENDING THE APPROVED RUDDY CREEK SUBDIVISION MAP.

APPROVE THE MAP EXTENSION UNTIL DECEMBER 17, 2025.

ADOPT RESOLUTION NO. P2023-24 EXTENDING THE DEADLINE FOR FILING A FINAL SUBDIVISION MAP FOR TSM 20-01 FOR TWO YEARS UNTIL DECEMBER 17, 2025, WITH THE CONDITION THAT APPROVAL OF THE FINAL MAP SHALL REMAIN SUBJECT TO ALL CONDITIONS OF APPROVAL IDENTIFIED IN THE LETTER OF APPROVAL DATED FEBRUARY 2, 2021.

## REGULAR BUSINESS

### **5. RE: Proposed Planning Commission Policy to Delegate review of Minor Land Divisions to the Zoning Administrator**

The Oroville Planning Commission will consider delegating review of parcel map waivers to the Zoning Administrator, consistent with reviews for lot line adjustments and parcel mergers.

ACTION REQUESTED -

APPROVE THE STAFF RECOMMENDATION TO DELEGATE REVIEW OF PARCEL MAP WAIVERS TO THE ZONING ADMINISTRATOR.

ADOPT RESOLUTION NO. P2023-25 -- A RESOLUTION OF THE OROVILLE PLANNING COMMISSION CONDITIONALLY DELEGATING REVIEWS OF PARCEL MAP WAIVERS TO THE ZONING ADMINISTRATOR

## REPORTS / DISCUSSIONS / CORRESPONDENCE

6. Commissioner Reports
7. Historical Advisory Commission Reports
8. Staff Reports

## ADJOURN THE MEETING

The meeting will be adjourned. A regular meeting of the Oroville Planning Commission will be held on November 16, 2023 at 6:00 PM.

*Accommodating Those Individuals with Special Needs* – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

*Recordings* - All meetings are recorded and broadcast live on [cityoforoville.org](http://cityoforoville.org) and YouTube.

*Planning Commission Decisions* - Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the City Council by filing with the Zoning Administrator within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the City of Oroville must be submitted at the time of filing. The Oroville City Council may sustain, modify or overrule this decision.



# City of Oroville

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
 Oroville, CA 95965-4897  
 (530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### PLANNING COMMISSION STAFF REPORT

Thursday, October 26, 2023

**RE: Use Permit UP23-010**

**SUMMARY:** The Oroville Rescue Mission proposes to establish a homeless shelter on a 1.8 acre site at 4248 Lincoln Blvd. The proposal would provide 35 'Pallet' shelters for up to 70 individuals, a 40-bed dormitory in an existing warehouse, and spaces for both tents and RV parking.

**RECOMMENDATION:** Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed project;
2. **Adopt the Notice of Exemption** as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);
3. **Adopt** the recommended Findings for Use Permit No. UP23-010;
4. **Approve** Use Permit UP23-010 and recommended Conditions of Approval;
5. **Adopt** Resolution No. P2023-22

**APPLICANT:** Oroville Rescue Mission

**LOCATION:** 4248 Lincoln Boulevard, APN 035-200-034

**GENERAL PLAN:** RBS (Retail and Business Service)

**ZONING:** CLM (Commercial/Light Manufacturing)

**FLOOD ZONE:** Zones X + A

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt per Section 15332 of Title 14, California Code of Regulations, Infill Development.

**REPORT PREPARED BY:**

**REVIEWED BY:**

\_\_\_\_\_  
 Mark Wolfe, Acting Principal Planner  
 Community Development Department

\_\_\_\_\_  
 Patrick Piatt, Director  
 Community Development Department

**DISCUSSION**

Summary: The Oroville Rescue Mission proposes to establish Mission Esperanza, a homeless shelter for up to approximately 120 people on a 1.8 acre site at 4248 Lincoln Boulevard. An existing warehouse on the site would be remodeled to provide dorm type accommodations for 40 individuals. Thirty-five Micro-shelters of 100 to 120 square feet in size produced by the Pallet company (commonly referred to as ‘Pallet Shelters’) would house up to 70 people. Areas for up to five tents and five RV’s, along with toilet and shower facilities would also be provided.

The location of the site is indicated on **Attachment 3**. A site plan indicating the location of the various site improvements is provided as **Attachment 4**.

The proposal would significantly increase the number of beds for homeless people in the community, and would advance General Plan goals with respect to housing. By providing an alternative to sleeping on public properties including parks in the city, the project will improve the ability of the City to enforce ‘no-camping’ regulations. The Rescue Mission, established in Oroville in 1964, will operate the shelter and provide general support and assistance to those staying there. The project has the full support of the Butte County Board of Supervisors with a contribution of \$500,000 from the County’s ARPA funds. The City of Oroville has also supported the project with \$750,000 in ARPA funds, and the state has provided \$4.5M in Encampment Resolution Funding.

Staff is recommending approval of the Use Permit, subject to conditions.

Site Conditions and Context:

The project site has most recently been used as an equipment rental business. Topography is sloped, rising roughly 15 feet from its lowest to highest points, west to east. The area around an existing 5,000+/- square foot warehouse structure has been leveled for storage and parking. There is no significant vegetation on the site. The site is mostly gravel and dirt. Existing fencing is a mix of chain-link and metal panels.

Primary access to the property is provided by a driveway to Lincoln Boulevard. Access is also available via a gate on Jefferson street.

The site fronts on Lincoln Boulevard, a four-lane arterial street with Class II bike lanes and a raised median. There are no public improvements such as curb, gutter, or sidewalk across the site’s frontage on either Lincoln or Jefferson. A signalized pedestrian crossing of Lincoln Blvd is located immediately to the south of the project site.

Surrounding Uses:

- North: Single Family Residential and Outdoor Commercial Storage
- South: The existing Rescue Mission offices
- East: (Across Lincoln Boulevard) Vacant
- West: Former Railroad Right of Way and previously developed but now vacant industrial lands.

Proposed Site Improvements: Only the areas of the site lying to the north and northwest of the existing warehouse structure are to be used (see site plan and other application materials, **Attachment 4**). These areas will be filled with up to five +/- feet of fill to provide a level, graded area for placement of the micro-shelters, the tent/RV sites, and shower trailers. Compacted aggregate base material with no permanent pavement is proposed.

Existing fencing will be replaced with chain-link with vinyl slats. Conditions of approval require solid wood fencing along the site's interface with adjacent residential properties.

Thirty of the proposed micro-shelters would be 100 square feet in size, accommodating up to two people. Five of the shelters would be 120 square feet in size to meet ADA requirements. Precise shelter locations may ultimately differ somewhat from what is depicted on the plans at this time in order to respond to operational efficiency and effectiveness.

Two trailers providing shower facilities would be located to the north of the existing warehouse building.

Operational Characteristics:

The shelter will operate in accordance with the "Oroville Rescue Mission Emergency Shelter Program Standards, Practices, and Guidelines", provided with this report as **Attachment 5**.

General Plan:

The site's General Plan land use designation for the site is Retail and Business Service, allowing for a broad range of relatively intense activities. The operating characteristics of the proposed use are generally less intense than most commercial uses, and the project would advance the following General Plan goals and/or policies:

Land Use Element Goal LU-3: *"Provide housing in a range of residential densities and types to address the housing needs of all segments of the community, including all income groups expected to reside in Oroville."*

Housing Element Goal 1, Program 1.2.1: *"Continue to work with the Butte County Homeless Continuum of Care Coalition to facilitate the provision of shelter and services for individuals experiencing homelessness, with the goal of rapidly re-housing individuals."*

Staff recommends that the proposal is consistent with Oroville's General Plan.

### Zoning:

The site is zoned Commercial/Light Manufacturing (CLM). While Emergency Shelters are not identified as being permissible, the Zoning Administrator has determined that this use is consistent with this zoning. Such determinations may be made in accordance with Oroville Municipal Code Section 17.080.090, "Interpretations regarding allowable uses of land". A memorandum establishing the basis for this determination is included with this report as **Attachment 6**.

### Findings in Support of Use Permit:

Oroville's Municipal Code provides that the Planning Commission may grant a use permit only upon making all of below findings, based on substantial evidence. Staff's recommendations with respect to each of the findings is provided in italics.

- a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the city as a whole. *The facility will be operated by the Oroville Rescue Mission, which has since 1964 successfully provided support services to the needy and homeless.*
- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity. *The facility is located in an area of need for the services it provides, and is located on an arterial street with bike lanes and a nearby pedestrian crossing.*
- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use. *All necessary utilities are existing along the site's street frontages.*
- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties. *The facility will be managed by an established and successful local service entity. Solid wood fencing is required between this use and abutting residences.*
- e. The subject site is physically suitable for the type and intensity of land use being proposed. *The site is mostly undeveloped, with no significant constraints. The nature of the use is of relatively low intensity as compared to otherwise allowable commercial uses of the property.*
- f. The size, intensity and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole. *There is a critical need for housing for the homeless in the community. The proposed use will*



*significantly increase the number of beds available to homeless people in the community.*

g. The permit complies with all applicable laws and regulations, including the requirements of the general plan, of this title and of the city municipal code. *The project is consistent with the General Plan and zoning requirements, and will be subject to all applicable City codes with respect to site development.*

#### Environmental Review:

The proposed project is exempt from review under the California Environmental Quality Act as an infill project. 15332. Such exemptions are possible when: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. All of these prerequisites are met in this case, and the exemption is appropriate.

#### **FISCAL IMPACT**

None. The project is subject to all customary fees.

#### **PUBLIC NOTICE**

A request for comments was prepared and circulated to the local agencies and surrounding property owners within 500 feet of the property. Additionally, the meeting date, time, and project description were published in the Oroville Mercury Register and posted at City Hall.

#### **ATTACHMENTS**

1. Resolution P2023-22
2. Notice of Exemption (CEQA)
3. Project Location
4. Application Package
5. Operational Program
6. Zoning Interpretation

**CITY OF OROVILLE PLANNING COMMISSION  
RESOLUTION NO. 23-22**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OROVILLE, CALIFORNIA, APPROVING USE PERMIT NO. 23-010 FOR THE OROVILLE RESCUE MISSION PALLET SHELTER PROJECT AT 4248 LINCOLN BOULEVARD, APN 035-200-034**

**WHEREAS**, The Oroville Rescue Mission has submitted an application for a Use Permit to establish an Emergency Homeless Shelter on 1.8 acre site at 4248 Lincoln Boulevard; and

**WHEREAS**, there is an acute need for such a facility in the community, and significant public funds have been directed to establishment of the use at this location; and

**WHEREAS**, the Planning Commission has considered the proposed Use Permit application, City staff's report, and conducted a duly noticed hearing regarding the matter; and

**WHEREAS**, the Planning Commission finds the proposal would address an urgent need for housing in the community, and would be consistent with both the City's General Plan and Zoning regulations; and

**WHEREAS**, the Commission has determined that the project is exempt from review under the California Environmental Quality Act (CEQA) as an Infill Project.

**NOW, THEREFORE, BE IT RESOLVED** by the Oroville Planning Commission as follows:

- Section 1. The Planning Commission hereby adopts a Categorical Exemption for the project pursuant to CEQA, and approves the project based upon the findings in staff's report and subject to the conditions set forth in Exhibit 1 to this Resolution.
  
- Section 4. The Planning Commission Secretary shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by the Planning Commission of the City of Oroville at a regular meeting on October 26, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Carl Durling, Chairman

ATTEST:

\_\_\_\_\_  
Patrick Piatt  
Community Development Director

## **EXHIBIT I to Planning Commission Resolution No. 23-22**

Conditions of Approval for Oroville Rescue Mission  
Use Permit No. 23-010 Adopted by Planning Commission October 26, 2023

1. Final plans for construction shall generally comply with those provided in staff's report to the Commission on this item. The location of micro-shelters may differ from these plans, but must be located within the depicted project areas on the site plan.
2. The facility shall be operated in accordance with the "Oroville Rescue Mission Emergency Shelter Program Standards, Practices, and Guidelines" provided in staff's report to the Commission on this item.
3. Fencing between the project site and abutting residences shall be a solid, seven-foot wooden design.
4. A lighting plan shall be submitted with construction plans, and shall be designed to avoid spillage of project lighting off-site.
5. A Phase I Site Assessment shall be submitted with the grading plan for this project.



# City of Oroville

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## NOTICE OF EXEMPTION

**TO:** Butte County Clerk  
155 Nelson Ave  
Oroville, CA 95965

**FROM:** City of Oroville  
1735 Montgomery Street  
Oroville, CA 95965

Project Title: UP 23-010 Oroville Rescue Mission

Project Location – Specific: 4248 Lincoln Boulevard

Project Location - City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The Oroville Rescue Mission proposes to establish a homeless shelter for up to approximately 120 people on a 1.8 acre site located at 4248 Lincoln Boulevard.

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying Out Project: Oroville Rescue Mission

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
  - Infill Exemption; Title 14, CCR, §15332
- Statutory Exemption: State code number:

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review as follows:

Infill Exemption; Title 14, CCR, §15332)

The proposed project is exempt from review under the California Environmental Quality Act as an infill project. 15332. Such exemptions are possible when: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately

served by all required utilities and public services. All of these prerequisites are met in this case, and the exemption is appropriate.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?  Yes  No

Lead Agency Contact Person: Wes Ervin

Telephone: (530) 538-2408

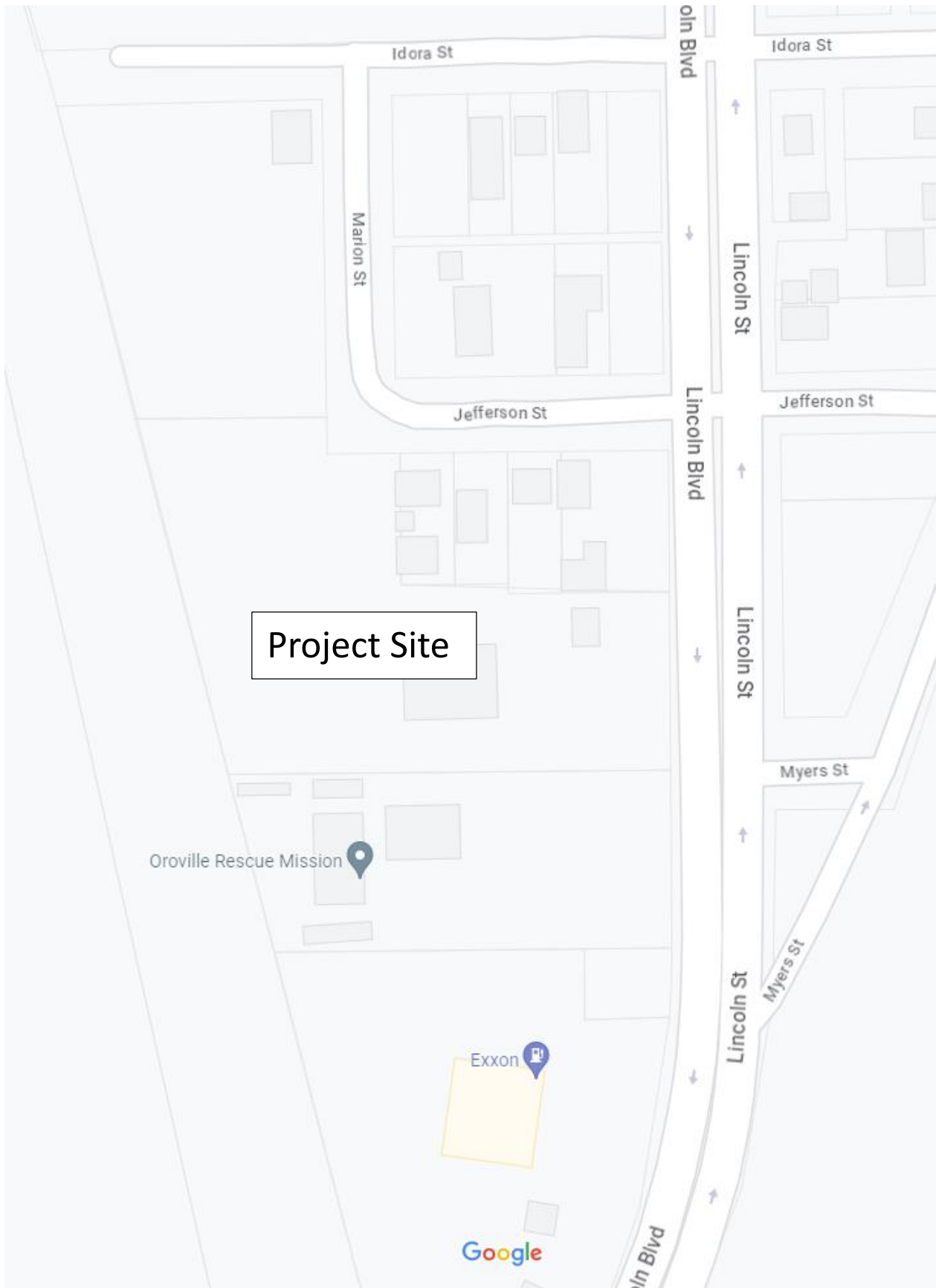
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Date: \_\_\_\_\_

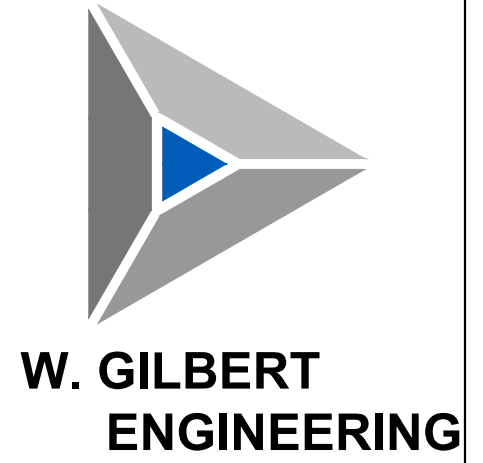
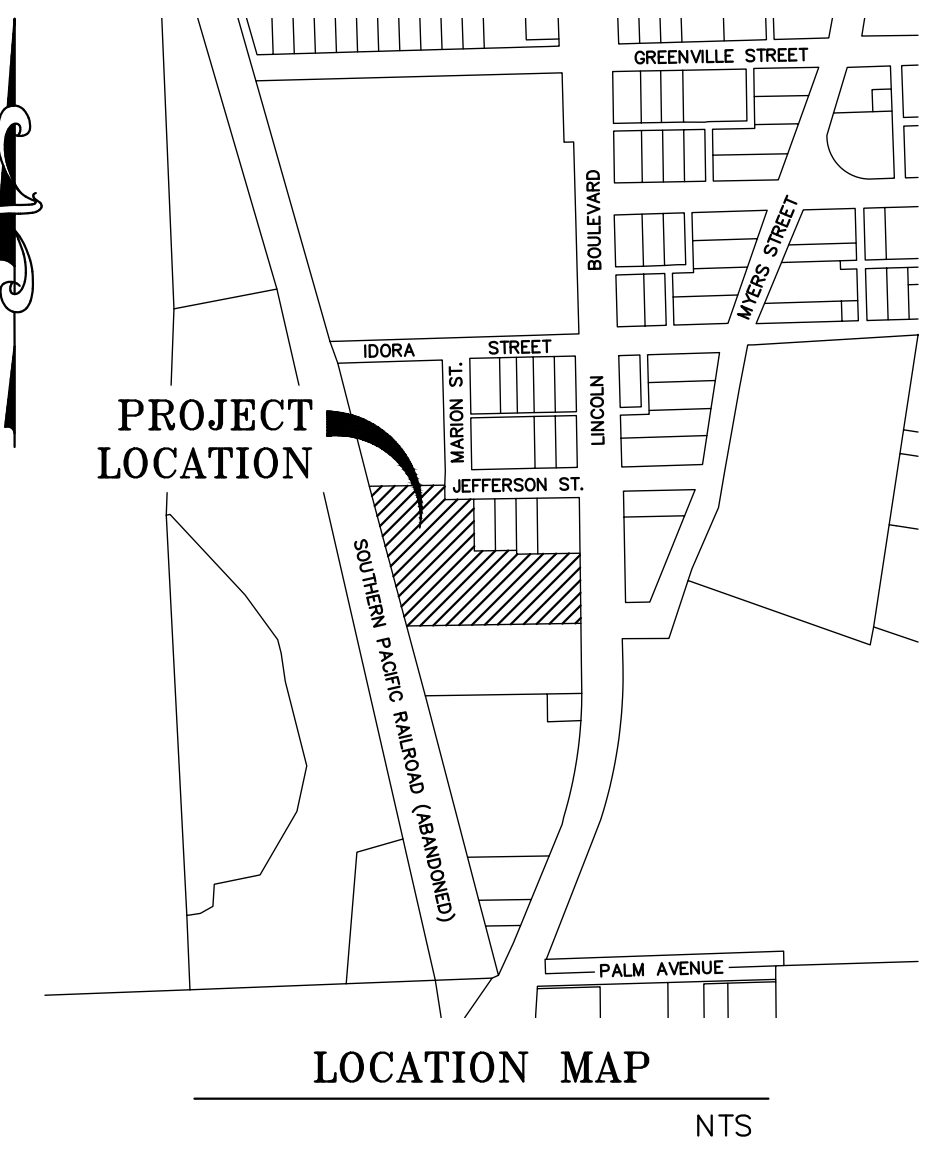
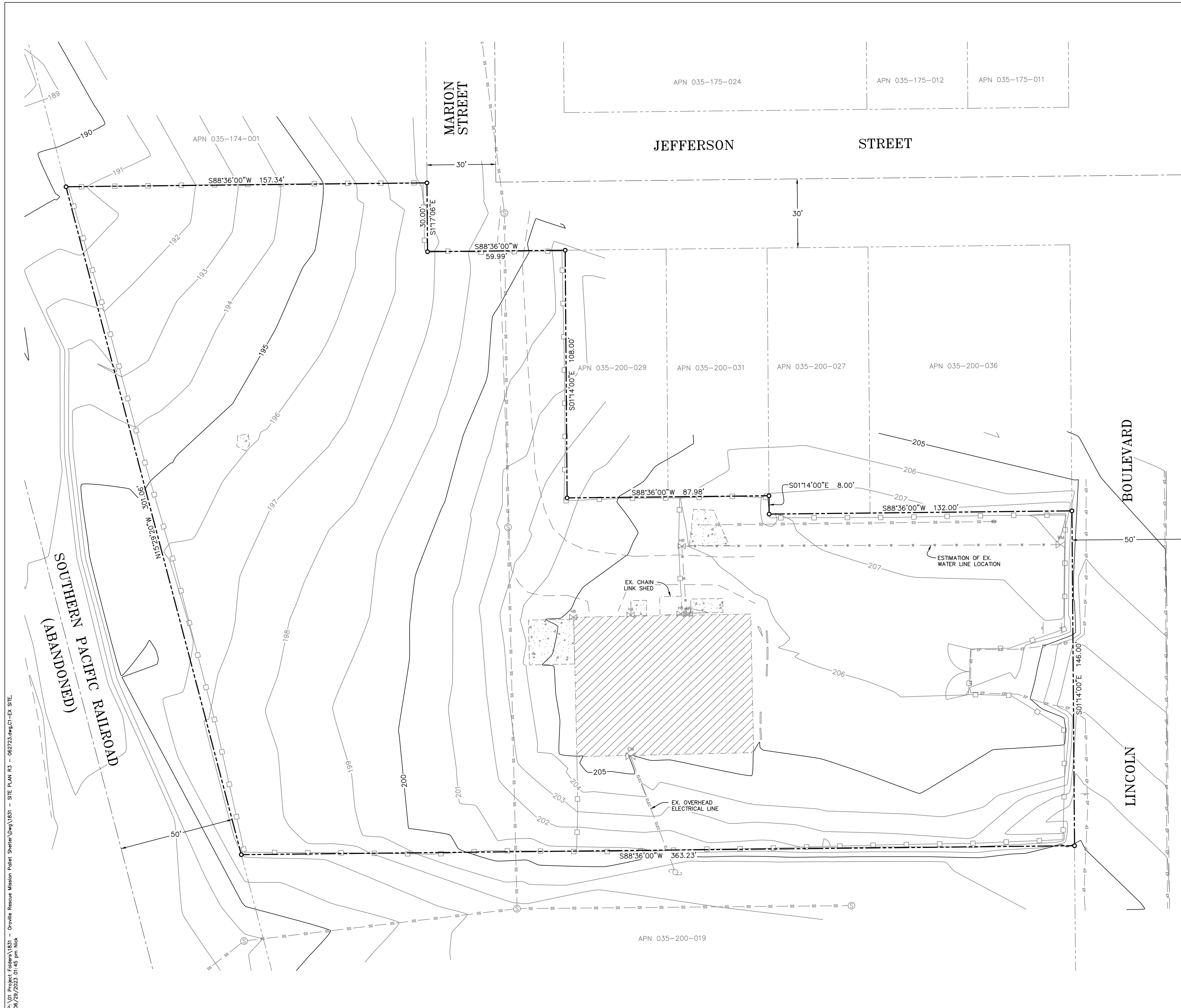
Signed by Lead Agency

Signed by Applicant

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**Site Location: Oroville Rescue Mission – Use Permit No. 23-010**



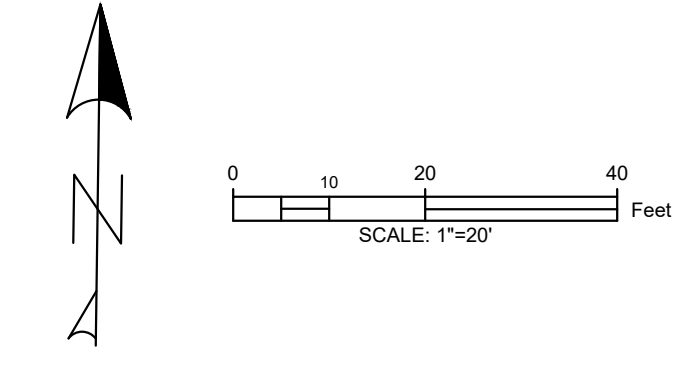
**W. GILBERT ENGINEERING**  
 140 YELLOWSTONE DRIVE,  
 SUITE 110  
 CHICO, CALIFORNIA 95973  
 TEL (530) 899-1315  
 FAX (530) 517-6020  
 WES@WGILBERTENGINEERING.COM

CIVIL ENGINEERING  
 SURVEYING  
 PROPERTY SURVEYS  
 CONSTRUCTION STAKING



6/29/2023

- LEGEND:**
- 100 — EXISTING GROUND CONTOUR (NAVD88 DATUM)
  - 100 — PROPOSED GROUND CONTOUR
  - — — — — PROPERTY LINE
  - - - - - NEIGHBORING PROPERTY LINE
  - — — — — RIGHT OF WAY CENTERLINE
  - - - - - EXISTING FENCE
  - - - - - EXISTING EDGE OF PAVEMENT
  - - - - - EXISTING GRAVEL DRIVEWAY
  - — — — — EXISTING SANITARY SEWER LINE WITH MANHOLE
  - — — — — EXISTING UTILITY POLE
  - — — — — EXISTING GUY WIRE ANCHOR
  - — — — — EXISTING FIRE HYDRANT
  - — — — — EXISTING WATER VALVE
  - — — — — EXISTING HOSE BIB
  - — — — — EXISTING ELECTRICAL METER
  - — — — — EXISTING CONCRETE
  - — — — — EXISTING BUILDING TO REMAIN
  - EG — EXISTING GRADE ELEVATION
  - FG — FINISH GRADE ELEVATION
  - FF — FINISH FLOOR ELEVATION
  - TOW — TOP OF WALL



CITY OF OROVILLE  
**OROVILLE RESCUE MISSION PALLET SHELTER  
 GRADING AND DRAINAGE PLAN  
 EXISTING SITE PLAN**  
 CITY OF OROVILLE      COUNTY OF BUTTE      STATE OF CALIFORNIA

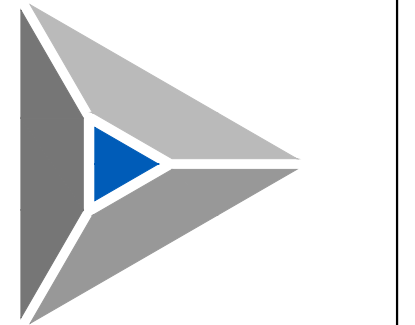
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DATE: JUNE 29, 2023  
 DRAWN BY: NMQ  
 DESIGNED BY: WEG  
 CHECKED BY: WEG  
 JOB NO.: 1831

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**W. GILBERT  
ENGINEERING**

140 YELLOWSTONE DRIVE,  
SUITE 110  
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CIVIL ENGINEERING  
SURVEYING  
PROPERTY SURVEYS  
CONSTRUCTION STAKING



6/29/2023

**OROVILLE RESCUE MISSION PALLET SHELTER  
GRADING AND DRAINAGE PLAN**

CITY OF OROVILLE

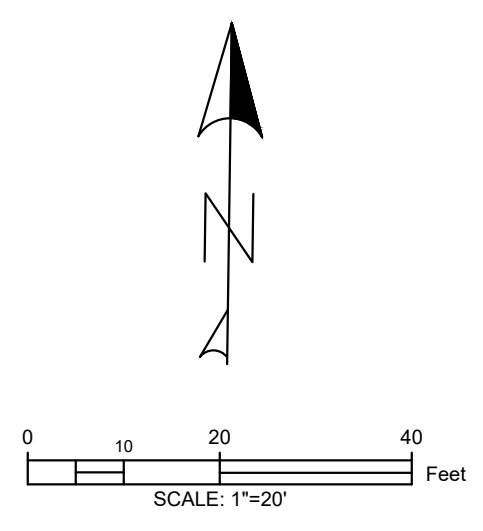
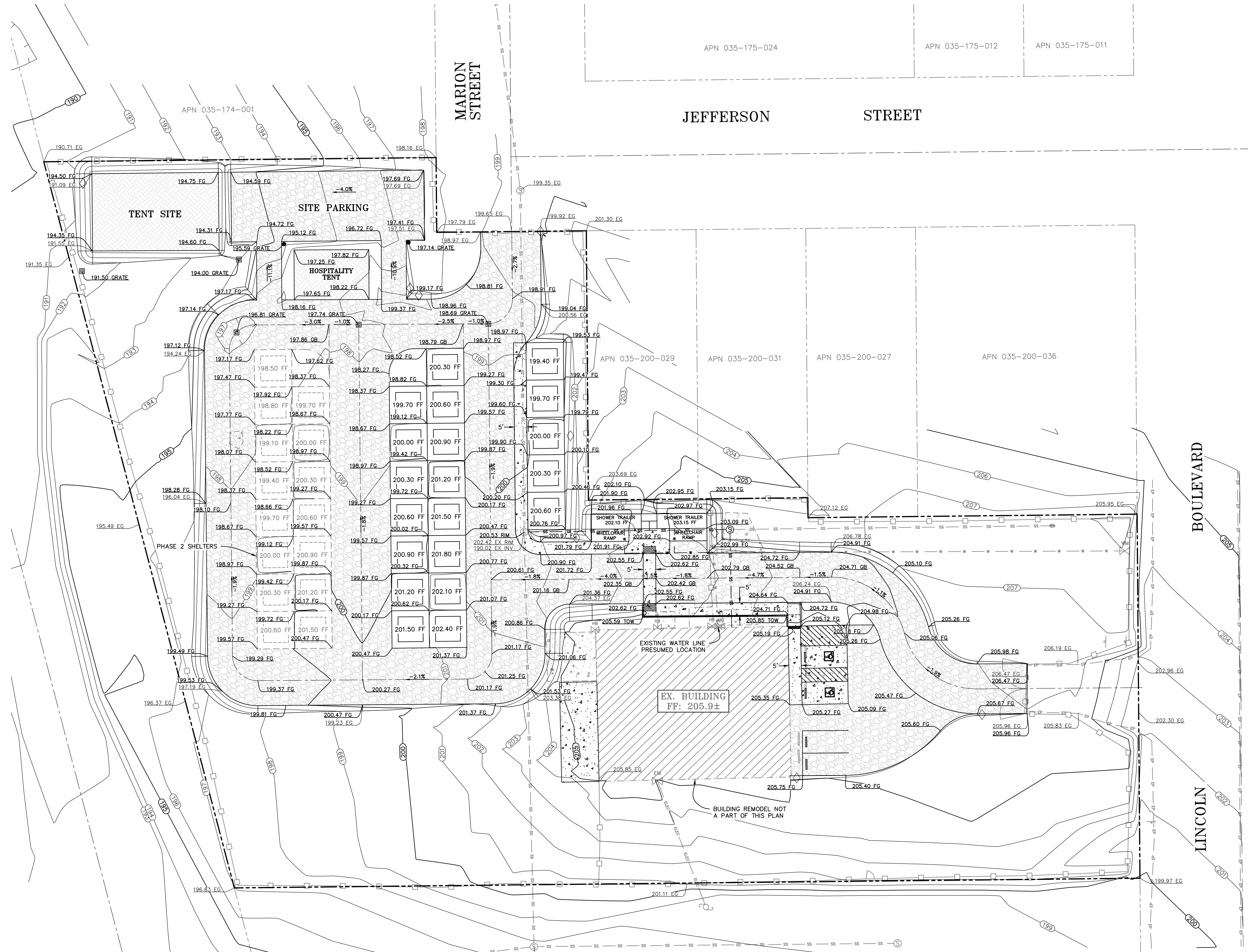
STATE OF CALIFORNIA  
COUNTY OF BUTTE

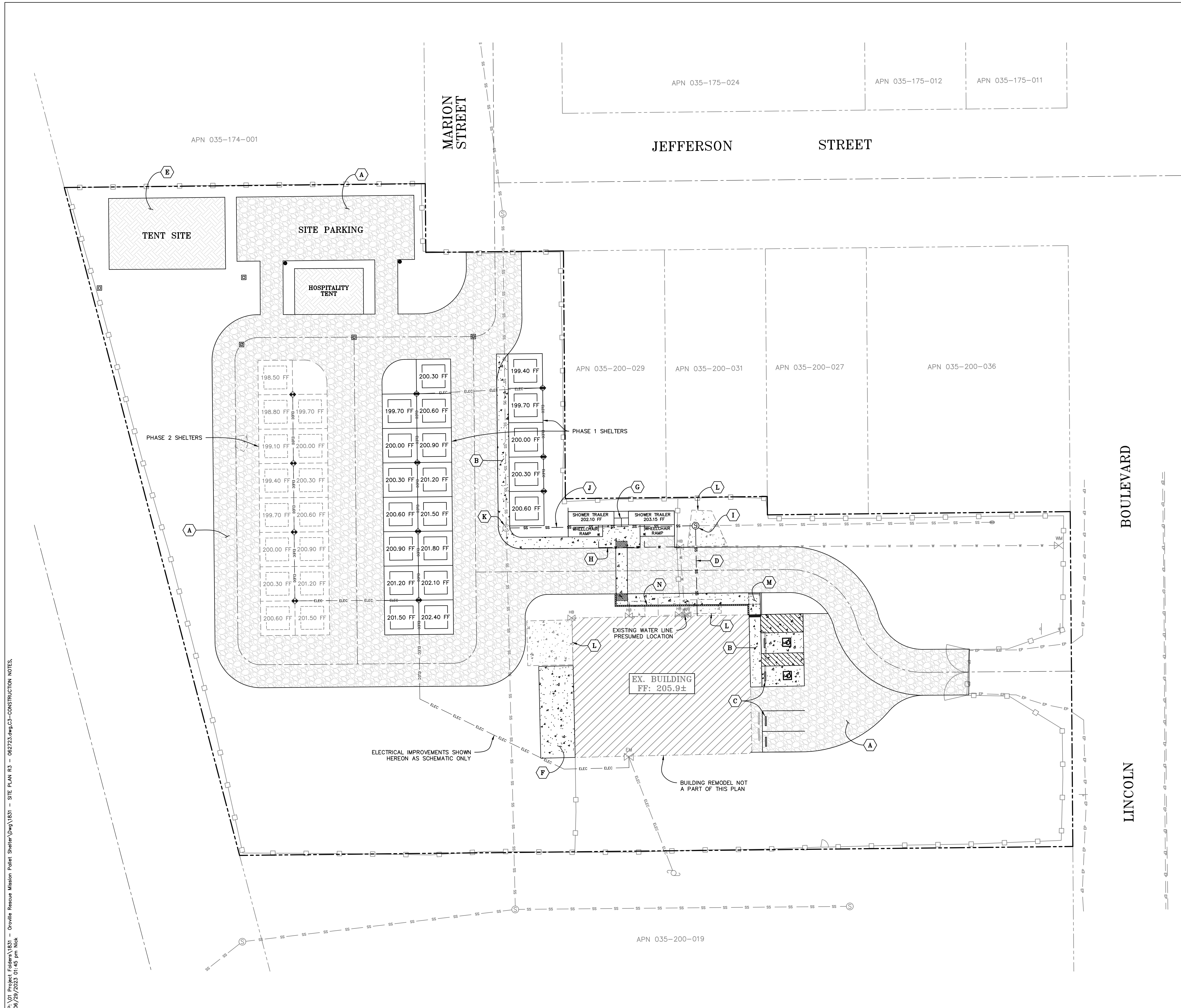
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DATE: JUNE 29, 2023  
DRAWN BY: NMQ  
DESIGNED BY: WEG  
CHECKED BY: WEG  
JOB NO.: 1831

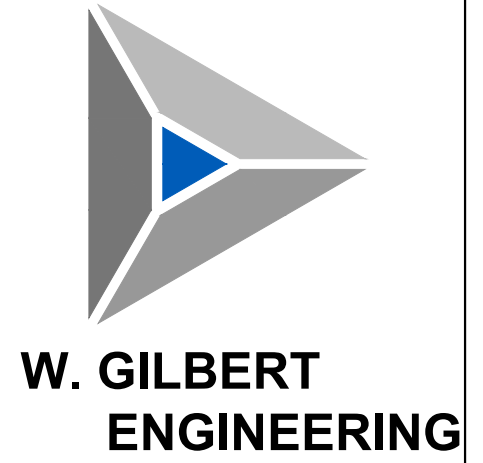
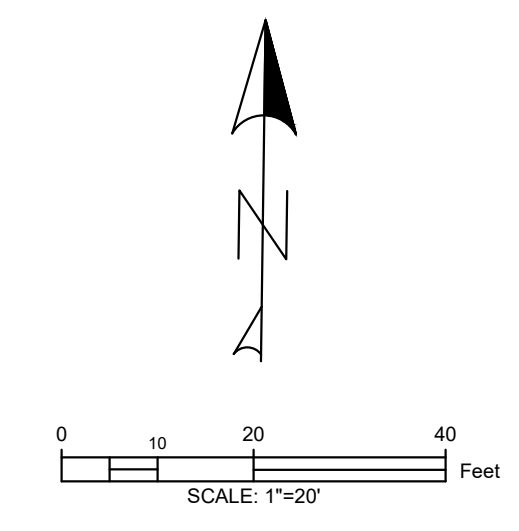
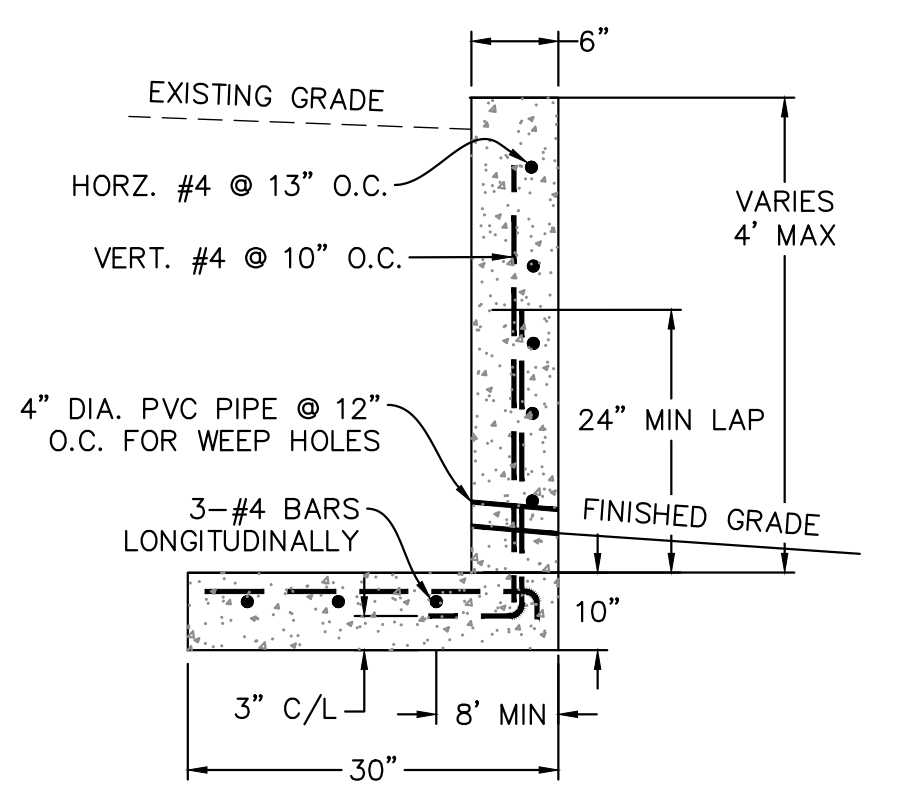
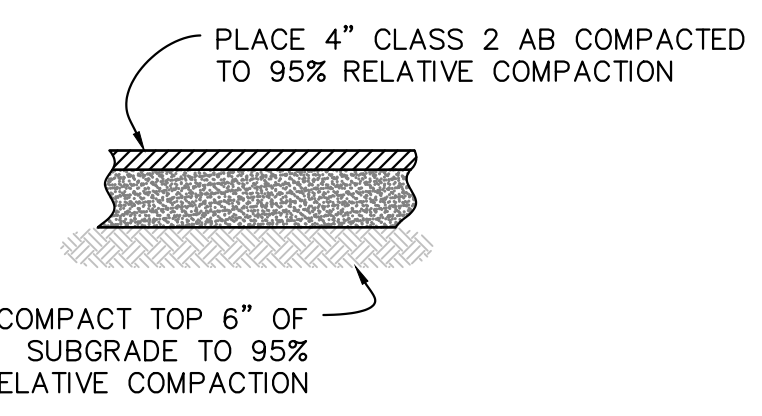
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CONSTRUCTION NOTES:

- (A) INSTALL 20,782± SF OF DRIVEWAY TYPICAL SECTION, SEE DETAIL ON THIS SHEET
- (B) INSTALL 1,951 SF (TOTAL) OF 4" THICK PCC SIDEWALK AND ADA PARKING STALL ON 2" SAND
- (C) INSTALL (4) CONCRETE PARKING STOPS
- (D) INSTALL 40 LF 4" PVC SS PIPE, S=.0035 '/FT MIN., INV AT TIE 196.50±
- (E) COMPACT 1,578± SF NATIVE SOIL TO 95% RELATIVE DENSITY AT TENT SITE
- (F) INSTALL 15' X 40' PCC SLAB
- (G) INSTALL 12 LF 4" PVC SS PIPE, S=.0035 '/FT MIN.
- (H) INSTALL 60 LF X 1" PVC WATER LINE. CONNECT TO EXISTING WATER SERVICE FOR EXISTING BUILDING.
- (I) INSTALL CITY OF OROVILLE STD. SS-2 SANITARY SEWER DROP MANHOLE OVER EXISTING MAIN, EX INV IN: 202.50± (VERIFY PRIOR TO CONSTRUCTION), 8" INV OUT: 196.40
- (J) REMOVE 83± LF EXISTING SS PIPE, REPLACE WITH 8" PVC PIPE, S=.0035 '/FT MIN., INSTALL NEW CONNECTION FROM SS LATERAL SERVING PARCEL TO NORTH AS REQUIRED TO NEW SS MAIN.
- (K) CONNECT SS PIPE TO EX. SSMH, EX INV OUT: 190.12±, 8" INV IN: 196.03, ADJUST RIM TO FINISH GRADE
- (L) REMOVE EXISTING CONCRETE SLAB
- (M) INSTALL CITY OF OROVILLE STD. MODIFIED ST-16 PEDESTRIAN RAMP
- (N) INSTALL 67± LF CONCRETE RETAINING WALL, SEE DETAIL ON THIS SHEET



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CIVIL ENGINEERING  
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CONSTRUCTION STAKING



6/29/2023

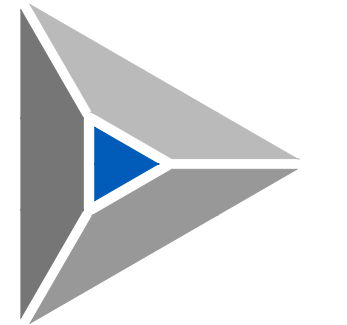
CITY OF OROVILLE  
**OROVILLE RESCUE MISSION PALLET SHELTER  
 GRADING AND DRAINAGE PLAN  
 CONSTRUCTION NOTES**  
 COUNTY OF BUTTE  
 STATE OF CALIFORNIA

REV	DATE	DESCRIPTION

C3

DATE: JUNE 29, 2023  
 DRAWN BY: NMQ  
 DESIGNED BY: WEG  
 CHECKED BY: WEG  
 JOB NO.: 1831

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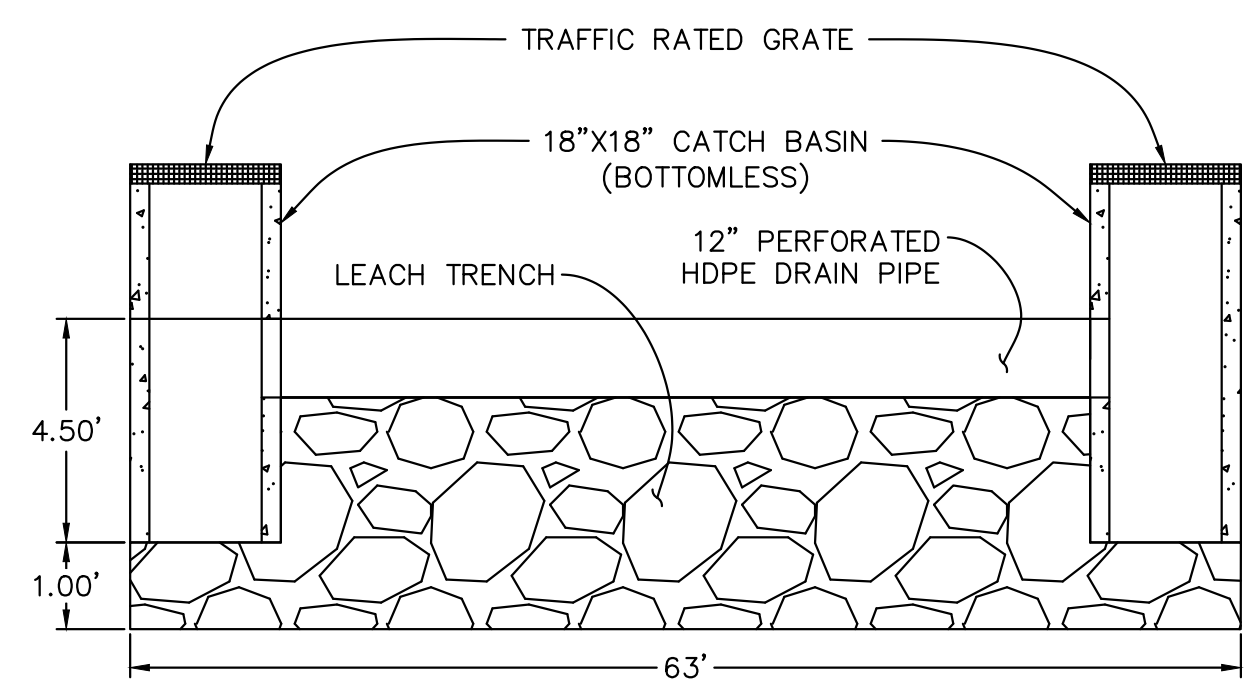
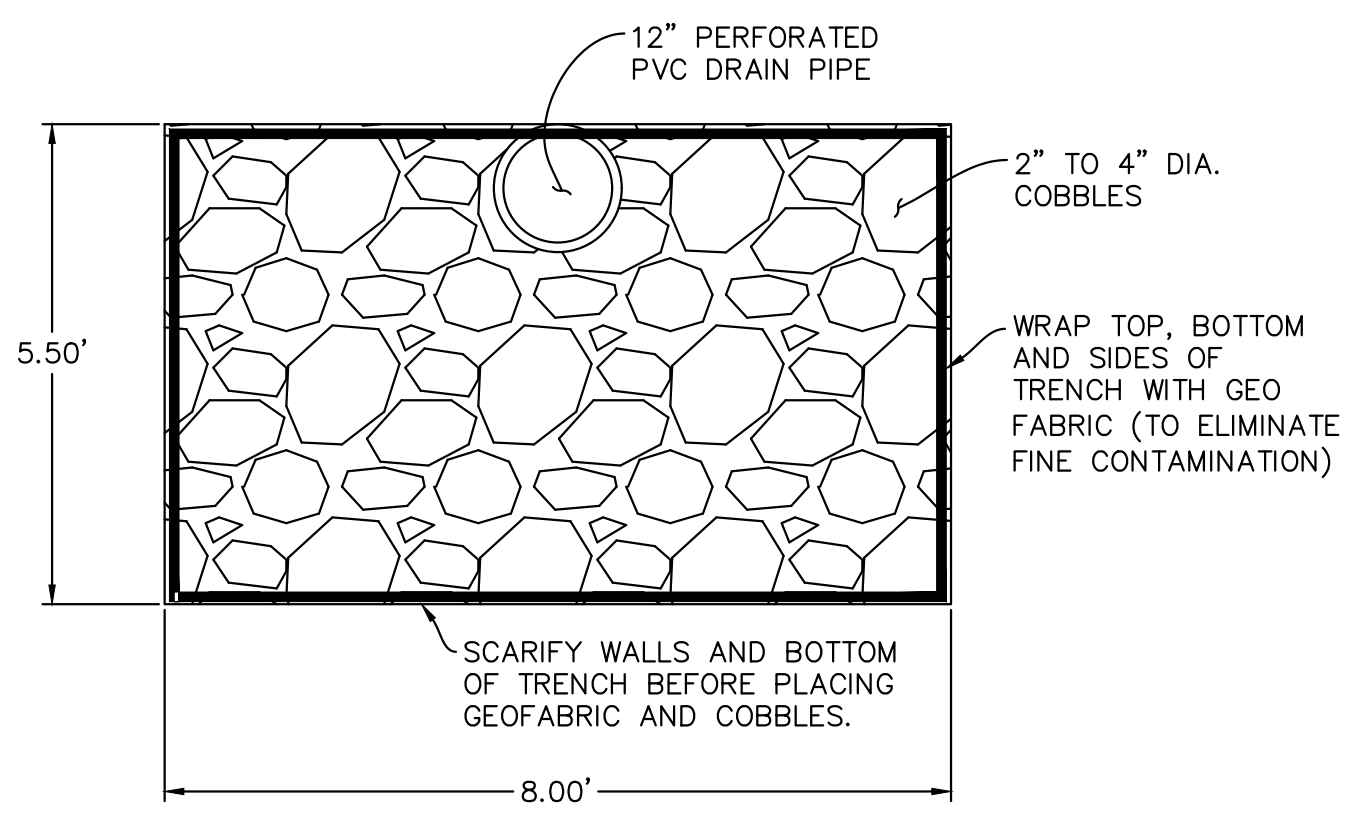
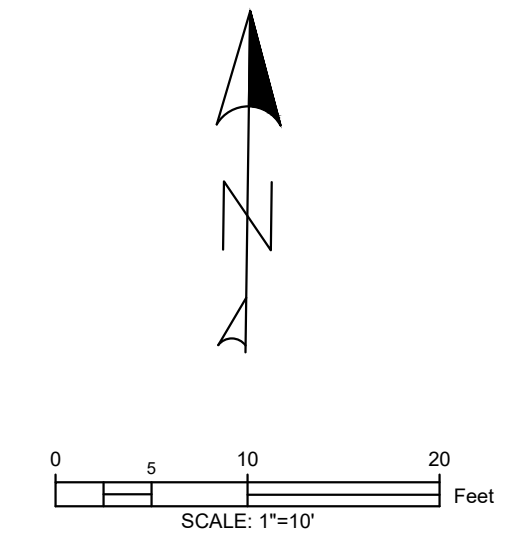
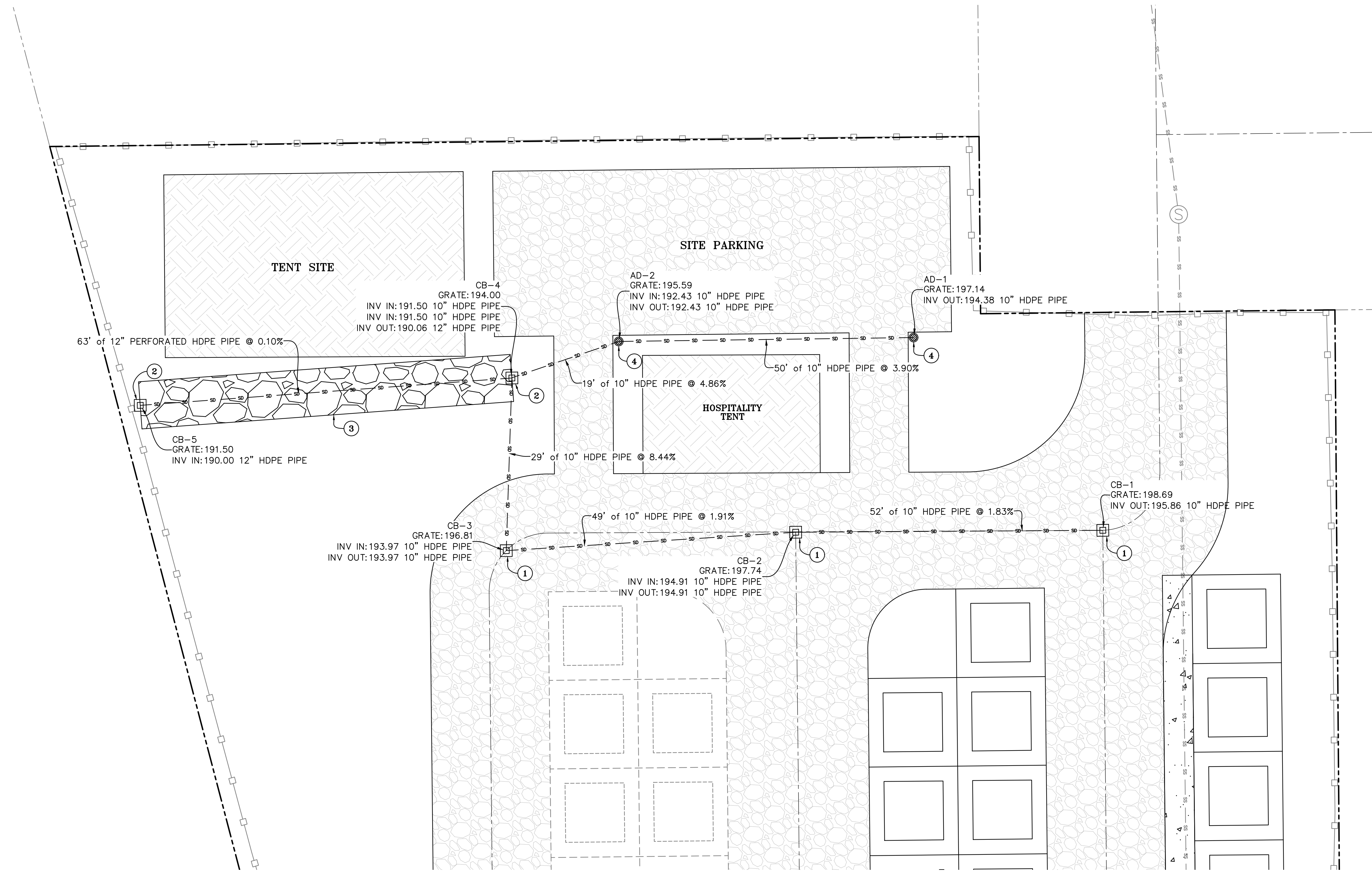


6/29/2023

CITY OF OROVILLE  
**OROVILLE RESCUE MISSION PALLET SHELTER  
GRADING AND DRAINAGE PLAN  
DRAINAGE PLAN**  
STATE OF CALIFORNIA  
CITY OF OROVILLE  
COUNTY OF BUTTE

**STORM DRAIN CONSTRUCTION NOTES:**

- ① INSTALL COOKS 18" X 18" DRAINAGE INLET OR APPROVED EQUAL, SEE DETAILS IN PLAN VIEW ON THIS SHEET
- ② INSTALL BOTTOMLESS COOKS 18" X 18" DRAINAGE INLET OR APPROVED EQUAL, SEE DETAILS IN PLAN VIEW ON THIS SHEET
- ③ INSTALL 63 LF STORM DRAIN LEACH TRENCH, SEE DETAILS ON THIS SHEET, S = 0.10%
- ④ INSTALL 12" X 12" DRAINAGE INLET OR APPROVED EQUAL, SEE DETAILS IN PLAN VIEW ON THIS SHEET



**Cut/Fill Report**

Volume Summary							
Name	Type	Cut Factor	Fill Factor	2d Area (Sq. Ft.)	Cut (Cu. Yd.)	Fill (Cu. Yd.)	Net (Cu. Yd.)
DIRT CALCS	full	1.000	1.500	239202.07	922.87	1753.41*	830.54*

\* Value adjusted by cut or fill factor other than 1.0

REV	DATE	DESCRIPTION	BY

**C4**

DATE: JUNE 29, 2023  
DRAWN BY: NMQ  
DESIGNED BY: WEG  
CHECKED BY: WEG  
JOB NO.: 1831

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**Oroville Rescue Mission**

**Emergency Shelter**

**Program Standards, Practices &  
Guidelines**

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## 1 Program Overview

The Emergency Solutions Grant (ESG) Program is funded by the Department of Housing and Urban Development (HUD) Homeless Emergency Assistance and Rapid Transitions to Housing Act of 2009 (HEARTH Act). Program regulations are established in the HUD ESG Interim Rule ([ESG Program and Consolidated Plan Conforming Amendment of 24 CFR Parts 91 and 576, Docket No. FR-5474-I-01, RIN 2506-AC29](#)). The Department of Housing and Community Development (HCD) is a grantee of HUD and will administer this award for eligible counties and cities that are not direct grantees of HUD. All CHCD grantees and subgrantees must follow all applicable sections of the ESG Interim Rule as established in these HCD ESG Guidelines. In these guidelines, the term “grantee” refers to the lead ESG grantee of HCD and any subgrantees. While reading the HUD ESG Interim Rule it is important to note the “recipient” in this case is the Department of HCD and the “subrecipient” is the lead ESG grantee (including any subgrantees) of HCD. Furthermore, not every section in the HUD ESG Interim Rule applies to HCD- administered ESG. The HCD ESG Guidelines define eligible activities and populations to be served (including additional required documentation) which are subsets of what is listed in the ESG Interim Rule.

The purpose of the ESG program is to provide assistance to individuals and families facing homelessness. All ESG-funded projects are required to participate in the local centralized coordinated assessment system if such a system has been developed in your county.

These guidelines will be updated as necessary throughout the grant period. Check out [www.HCD.wa.gov/ESG](http://www.HCD.wa.gov/ESG) frequently to ensure you are referencing the latest version of the guidelines and program information and to access all of the attached documents for these Guidelines.

## 2 Emergency Shelter

ESG funds may be used for costs of providing case management to homeless families and individuals in emergency shelters and operating emergency shelters. Individuals and families are eligible for emergency shelter assistance if they fall under the **at-imminent risk of homelessness, literally homeless, or fleeing/attempting to flee domestic violence** definitions (see section 3 *Rapid Re-housing and Prevention* below for definitions and documentation requirements).

## 2.1 Emergency Shelter Eligible Activities

1. Case management. The cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant is eligible. Component services and activities consist of:
  - Using the centralized or coordinated assessment system
  - Conducting the initial evaluation including verifying and documenting eligibility;
  - Counseling;
  - Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
  - Monitoring and evaluating program participant progress;
  - Providing information and referrals to other providers;
  - Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and
  - Developing an individualized housing and service plan, including planning a path to permanent housing stability
2. Shelter operations. Eligible costs are the costs of maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of the emergency shelter. Where no appropriate emergency shelter is available for a homeless family or individual, eligible costs may also include a hotel or motel voucher for that family or individual.

## 2.2 Emergency Shelter Policies

Prohibition against involuntary family separation. The age of a child under age 18 must not be used as a basis for denying any family's admission to an emergency shelter that uses Emergency Solutions Grant (ESG) funding or services and provides shelter to families with children under age 18.

Essential services and shelter operations. Where the grantee or subgrantee uses ESG funds solely for essential services or shelter operations, the grantee and subgrantees must provide services or shelter to homeless individuals and families at least for the period during which the ESG funds are provided. The grantee or subgrantee does not need to limit these services or



shelter to a particular site or structure, so long as the site or structure serves the same type of persons originally served with the assistance (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or serves homeless persons in the same area where the grantee and subgrantees originally provided the services or shelter.

### 3 Street Outreach

ESG funds may be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. For the purposes of this section, the term “unsheltered homeless people” means individuals and families who qualify as homeless under paragraph (1)(i) of the “homeless” definition under §576.2 (An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground)

#### 3.1 Street Outreach Eligible Activities

(1) *Engagement.* The costs of activities to locate, identify, and build relationships with unsheltered homeless people and engage them for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs. These activities consist of making an initial assessment of needs and eligibility; providing crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; and actively connecting and providing information and referrals to programs targeted to homeless people and mainstream social services and housing programs, including emergency shelter, transitional housing, community-based services, permanent supportive housing, and rapid re-housing programs. Eligible costs include the cell phone costs of outreach workers during the performance of these activities.

(2) *Case management.* The cost of assessing housing and service needs, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant. Eligible services and activities are as follows: using the centralized or coordinated assessment system as required under §576.400(d); conducting the initial evaluation required under §576.401(a), including verifying and documenting eligibility; counseling; developing, securing and coordinating services; obtaining Federal, State, and local benefits; monitoring and evaluating program participant progress; providing information and referrals to other providers; and developing an individualized housing and service plan, including planning a path to permanent housing stability.

(3) *Emergency health services.* (i) Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals operating in community-

based settings, including streets, parks, and other places where unsheltered homeless people are living.

(ii) ESG funds may be used only for these services to the extent that other appropriate health services are inaccessible or unavailable within the area.

(iii) Eligible treatment consists of assessing a program participant's health problems and developing a treatment plan; assisting program participants to understand their health needs; providing directly or assisting program participants to obtain appropriate emergency medical treatment; and providing medication and follow-up services.

(4) *Emergency mental health services.* (i) Eligible costs are the direct outpatient treatment by licensed professionals of mental health conditions operating in community-based settings, including streets, parks, and other places where unsheltered people are living.

(ii) ESG funds may be used only for these services to the extent that other appropriate mental health services are inaccessible or unavailable within the community.

(iii) Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances.

(iv) Eligible treatment consists of crisis interventions, the prescription of psychotropic medications, explanation about the use and management of medications, and combinations of therapeutic approaches to address multiple problems.

(5) *Transportation.* The transportation costs of travel by outreach workers, social workers, medical professionals, or other service providers are eligible, provided that this travel takes place during the provision of services eligible under this section. The costs of transporting unsheltered people to emergency shelters or other service facilities are also eligible. These costs include the following:

(i) The cost of a program participant's travel on public transportation;

(ii) If service workers use their own vehicles, mileage allowance for service workers to visit program participants;

(iii) The cost of purchasing or leasing a vehicle for the grantee and subgrantees in which staff transports program participants and/or staff serving program participants, and the cost of gas, insurance, taxes and maintenance for the vehicle; and

(iv) The travel costs of grantee and subgrantees' staff to accompany or assist program participants to use public transportation.

(6) *Services for special populations.* ESG funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible under paragraphs (a)(1) through (a)(5) of this section. The term *victim services* means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

### 3.2 Street Outreach Policies

*Minimum period of use.* The grantee and subgrantees must provide services to homeless individuals and families for at least the period during which ESG funds are provided.

*Maintenance of effort.* If the grantee or subgrantee is a unit of general purpose local government, its ESG funds cannot be used to replace funds the local government provided for street outreach and emergency shelter services during the immediately preceding 12-month period, unless HUD determines that the unit of general purpose local government is in a severe financial deficit.

## 4 Rapid Re-housing and Prevention

Based on the head of household's "Housing Status" at the time of ESG program entry in the local Homeless Management Information System (HMIS) there are two options for receiving ESG rental assistance:

1. "At-Imminent Risk of Literal Homelessness or At-Risk of Homelessness" – **Prevention Assistance**
2. "Literally Homeless" – **Rapid Re-Housing Assistance**

### 4.1 Prevention – for Households At-Risk or at Imminent-Risk of Homelessness

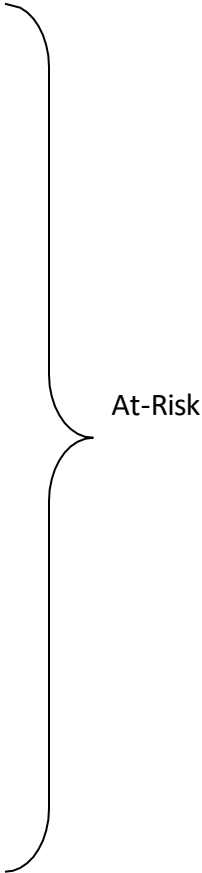
Prevention assistance is available for households who are at-risk or at-imminent risk of homelessness according to HUD's definition below.

**Households who:**

1. have annual incomes below 30% AMI; **AND**
2. do not have sufficient resources or support networks immediately available to obtain permanent housing and prevent literal homelessness; **AND**
3. Either:
  - a. will imminently lose their primary nighttime residence within 14 days; OR
  - b. are fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or other dangerous or life threatening conditions related to violence

**OR**

- 1. have annual incomes below 30% AMI; **AND**
- 2. do not have sufficient resources or support networks immediately available to obtain permanent housing and prevent literal homelessness; **AND**
- 3. meet at least one of the following six conditions:
  - i. Moved 2 or more times due to economic reasons in 60 days prior to application for assistance
  - ii. Living in the home of another due to economic hardship
  - iii. Losing housing within 21 days after application date
  - iv. Living in a hotel/motel not paid for by charitable organizations or federal/state/local government programs
  - v. Living in severely overcrowded unit as defined by the U.S. Census Bureau (*single-room occupancy or efficiency apartment unit in which more than two persons, on average, reside or another type of housing in which there reside more than 1.5 persons per room*)
  - vi. Exiting publicly funded institution or system of care



**4.2 Rapid Re-Housing – for Households who are Literally Homeless:**

**Rapid Re-Housing assistance is available for persons who are literally homeless\* according to HUD's definition below.**

An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- 1. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; **OR**
- 2. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); **OR**

3. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

\*This includes literally homeless individuals/families fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or other dangerous or life threatening conditions related to violence

## 5 HMIS

Eligible costs. (1) The grantee or subgrantees may use ESG funds to pay the costs of contributing ESG (including ESG match) data to the HMIS designated by the Continuum of Care for the area, including the costs of:

- (i) Purchasing or leasing computer hardware;
- (ii) Purchasing software or software licenses;
- (iii) Purchasing or leasing equipment, including telephones, fax machines, and furniture;
- (iv) Obtaining technical support;
- (v) Leasing office space;
- (vi) Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS;
- (vii) Paying salaries for operating HMIS, including:
  - (A) Completing data entry;
  - (B) Monitoring and reviewing data quality;
  - (C) Completing data analysis;
  - (D) Reporting to the HMIS Lead;
  - (F) Training staff on using the HMIS or comparable database; and
  - (G) Implementing and complying with HMIS requirements;

(viii) Paying costs of staff to travel to and attend HUD-sponsored and HUD-approved training on HMIS and programs authorized by Title IV of the McKinney-Vento Homeless Assistance Act;

(ix) Paying staff travel costs to conduct intake.

(b) General restrictions. Activities funded under this section must comply with HUD's standards on participation, data collection, and reporting under a local HMIS.

The ESG Notice requires all grantees to collect data on clients receiving ESG assistance and ESG match via the Homeless Management Information System (HMIS) run by the Continuum of Care (CoC). Data collection must be compliant with HUD's HMIS Data Standards. "Income and Source" is a Program-Specific data element listed in the Standards because this data is needed to complete APRs for both ESG and CoC programs.

The HMIS standards require that grantees enter income sources and amounts and non-cash benefits received in the past 30 days during three points in time - at entry into program, at exit from the program and at least once annually if the household is in the program over a year. The amount documented through this calculation should NOT be used to determine eligibility, but rather can be used to show that the household does lack resources to maintain housing.

## 6 Documentation Requirements for Rapid Re-Housing and Prevention

**In order to receive Prevention or Rapid Re-Housing assistance, households must have the following clearly noted and documented in the household's case file:**

1. *Initial Consultation & Eligibility Determination:*

The household must receive an initial consultation and eligibility assessment to determine income and housing status eligibility and the appropriate type of assistance needed to regain stability in permanent housing.

2. *Assistance in obtaining mainstream and other resources:*

The household must receive appropriate supportive services and referrals essential to achieving independent living through other federal, state, local, and private assistance.

3. *Housing stability plan to include:*

- i. Needs assessment to include specific housing and self-sufficiency goals; and
- ii. Action steps to retain permanent housing after ESG assistance ends;

Households receiving assistance from a victim service provider may be exempted from the case management requirement.

## Prevention and Rapid Re-Housing Status

See required *ESG Household Eligibility – Prevention* and *ESG Household Eligibility – Rapid Re-Housing* forms for documentation requirements.

## Re-Evaluation for Prevention and Rapid Re-Housing Assistance

Household eligibility and the types and amounts of assistance the household needs must be re-evaluated and documented not less than once every 3 months for households receiving homelessness prevention assistance, and not less than once annually for households receiving rapid re-housing assistance. At a minimum, each re-evaluation of eligibility must establish that:

1. The household does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; **AND**
2. The household lacks sufficient resources and support networks necessary to retain housing without ESG assistance.

See required *ESG Household Eligibility – Re-Evaluation* form for documentation requirements.

## 6.1 Documenting Income

### Definition

Income is money that is paid to, or on behalf of, the head of household or spouse (even if temporarily absent) or to any other household member 18 years or older. (Persons fleeing domestic violence do not have to report the abuser’s income.) Income also includes all amounts which are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. When determining the annual income of an individual or family, the grantee must use the standard for calculating annual income under [24 CFR 5.609](#).

### Inclusions

The following types of income “inclusions” must be counted when calculating current **gross** income:

- Earned income
- Self-Employment/Business Income
- Interest & Dividend income

- Pension/Retirement income
- Unemployment & Disability income
- TANF/Public Assistance
- Alimony and child support income
- Armed Forces income

### Exclusions

- Income of children (under 18)
- Inheritance and insurance income
- Medical expense reimbursement
- Income of live-in aides
- Certain state payments regarding disability
- Student financial aid
- Armed Forces Hostile Fire pay

## 6.2 Annualizing Wages and Periodic Payments

When calculating income based on hourly, weekly, or monthly payment information, add the gross amount earned in each payment period that is documented and divide by the number of payment periods. This provides an average wage per payment period. Depending on pay periods used by the employer or the schedule of periodic payments, the following calculations convert the average wage into annual income:

- Hourly Wage multiplied by Hours Worked per Week multiplied by 52 weeks
- Weekly Wage multiplied by 52 weeks
- Bi-Weekly (every other week) Wage multiplied by 26 bi-weekly periods
- Semi-Monthly Wage (twice a month) multiplied by 24 semi-monthly periods
- Monthly Wage multiplied by 12 months

The definition of income reflects a household's income at the time they are seeking assistance. Accordingly, documents and information collected to verify income should be recent. Documentation dated within 30 days is acceptable. However, for public assistance benefits, (e.g., SSI, food stamps), a benefits statement received any time within the twelve months prior to the time of application and reflecting current benefits received by a household is allowed. This includes a printout of a client's benefits record in the DSHS Benefits Verification System (see Appendix C). A copy of a recent bank statement indicating direct deposit is also acceptable.

### Range of Documentation Types in Order of Preference

- Third Party – Source



- Third Party – Written
- Third Party – Oral
- Self-Certification

## 7 Rental Assistance

### 7.1 Rental Assistance for both Prevention and Rapid Re-Housing can include the following types:

- Monthly Tenant-based or Project-based Rental Assistance (see requirements below)
- Application fees that is charged by the owner to all applicants
- Security deposit that is equal to no more than 2 months' rent
- Last month's rent (paid to the owner of housing at the time of the security deposit and first month's rent are paid) that does not exceed one month's rent and must be included in calculating the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period
- Utility payments - up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period
  - Utility-only assistance can be provided under very limited circumstances and must be documented using the *ESG Utility Assistance* form. Grantee must confirm that no other [utility assistance](#), such as [LIHEAP](#), is available to prevent the shut-off. For example, if the household is going to have to abandon the housing due to a lack of utilities and can avoid moving to a shelter by having utilities paid, then ESG funds may be used for this purpose. Under another scenario, a household's lease may include a provision requiring utilities be maintained for the unit by the tenant. As a result, a utility shut-off could constitute a lease violation, thus placing the household at risk for eviction. In both cases, it is the grantee responsibility to confirm and document in the case file that the utility company will in fact shut-off the utility if the amount due is not paid.
- Moving costs - reasonable moving costs such as truck rental and hiring a moving company are also allowable. May include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

- ESG is not a reunification or relocation program and assistance for moving costs related to reuniting households with family members is not eligible unless the participant can live with the family member permanently. If the ESG assisted household has been assessed and determined to meet all eligibility criteria and they have permanent affordable housing identified in another location, funds may be used to pay for reasonable moving costs to another location. However, note that transportation costs (including bus, train, and airplane tickets) for households are not eligible.

**Rental Assistance Requirements**

The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family

Types and length of assistance:

<i>Type</i>	<i>Length</i>
Short Term	Up to 3 months
Medium Term	4 to 24 months
Payment of Rental Arrears	Onetime payment up to 6 months, including any late fees on arrears
Any combination of the three types above	Total not to exceed 24 months during any 3 year period, including any payment for last month’s rent

**Short-term Rental Assistance** – Costs may not exceed rental costs accrued over a period of 1 to 3 months.

**Medium-term Rental Assistance** – Costs may not exceed rental costs accrued over a period of 24 months.

**Rental Arrears** – Rental assistance may also be used to pay for up to 6 months of rental arrears. Rental arrears may be paid if the payment enables the household to remain in the housing unit for which the arrears are being paid or move to another unit. In cases where an eviction cannot be prevented, rental arrears can still be paid if it satisfies the grievance with the evicting landlord and thereby allows the household to obtain different housing. If ESG funds are used to pay rental arrears, arrears must be included in determining the total period of the household’s rental assistance, which may not exceed 24 months.

**Use with Other Subsidies**

Financial assistance cannot be provided to a household who is receiving the same type (as listed beginning on page 6 above) of assistance through other public sources.

Note: Rental arrears can be paid on behalf of a household receiving a subsidy from another

public program (e.g., Section 8) because it represents a different time period and cost type than the rental subsidy (i.e., the arrears represents a back payment of the household portion, and the current rental assistance is a forward payment).

### Rental Assistance Agreement

The grantee may make rental assistance payments only to an owner with whom the grantee has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the grantee a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

The grantee must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The grantee is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

#### 7.1.4 Lease Requirements

Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. For program participants living in housing with project-based rental assistance (described below) the lease must have an initial term of one year.

#### ***Tenant-based Rental Assistance***

A program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements.

The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if: the program participant moves out of the housing unit for which the program participant has a lease; the lease terminates and is not renewed; or the program participant becomes ineligible to receive ESG rental assistance.

### ***Project-based Rental Assistance***

If the grantee identifies a permanent housing unit that meets ESG requirements and becomes available before a program participant is identified to lease the unit, the grantee may enter into a rental assistance agreement with the owner to reserve the unit and subsidize its rent in accordance with the following requirements:

- (1) The rental assistance agreement may cover one or more permanent housing units in the same building. Each unit covered by the rental assistance agreement (“assisted unit”) may only be occupied by program participants, except as provided under paragraph (4) of this section.
- (2) The grantee may pay up to 100 percent of the first month's rent, provided that a program participant signs a lease and moves into the unit before the end of the month for which the first month's rent is paid. The rent paid before a program participant moves into the unit must not exceed the rent to be charged under the program participant's lease and must be included when determining that program participant's total rental assistance.
- (3) The grantee may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant. When a program participant moves out of an assisted unit, the grantee may pay the next month's rent, i.e., the first month's rent for a new program participant, as provided in paragraph (2) of this section.
- (4) The program participant's lease must not condition the term of occupancy to the provision of rental assistance payments. If the program participant is determined ineligible or reaches the maximum number of months over which rental assistance can be provided, the grantee must suspend or terminate the rental assistance payments for the unit. If the payments are suspended, the individual or family may remain in the assisted unit as permitted under the lease, and the grantee may resume payments if the individual or family again becomes eligible and needs further rental assistance. If the payments are terminated, the rental assistance may be transferred to another available unit in the same building, provided that the other unit meets all ESG requirements.
- (5) The rental assistance agreement must have an initial term of one year. When a new program participant moves into an assisted unit, the term of the rental assistance agreement may be extended to cover the initial term of the program participant's lease. If the program participant's lease is renewed, the rental assistance agreement may be renewed or extended, as needed, up to the maximum number of months for which the program participant remains eligible. However, under no circumstances may the grantee commit ESG funds to be expended beyond the expenditure deadline or commit funds for a future ESG grant before the grant is awarded.

## Conflicts of Interest

The payment of any type or amount of ESG assistance may not be conditioned on a household's acceptance or occupancy of housing owned by the grantee or a parent or subsidiary of the grantee. No grantee may, with respect to households occupying housing owned by the grantee, or any parent or subsidiary of the grantee, carry out the initial consultation and eligibility determination or administer homelessness prevention assistance.

## Allowable Rent Assistance Models

The rent assistance model must be consistent for all households within each individual program. Each program (defined by program type and location designated a unique row on the housing inventory chart) is allowed only one model, and rent assistance calculations must be documented in the client file. An agency may employ more than one model, but only one model may be used per program.

The allowable models:

1. Flat Rate: The subsidy is a set amount each month for all households (e.g., all households get a maximum of \$200 each month).
2. Household income: Household rent share is based on a specific percentage of household income (e.g., 30 percent, 40 percent, 50 percent). ESG does NOT mandate any specific tenant contribution.
3. Percentage of the rent: Household rent share is a pre-set percentage of the rent (e.g., all households must pay 75% of their rent).
4. Graduated subsidy: Whether income-based or fixed, the subsidy declines in "steps" based upon a fixed timeline or when the individual has reached specific goals, until the household assumes full responsibility for monthly housing costs. The steps are known (and documented) in advance and act as deadlines for increasing income.

Grantee ESG policies and/or procedures for *rent assistance* must include, at a minimum:

1. A clear description of the model, rent subsidy/household's share of rent and utilities and how it is calculated;
2. Any minimum lease periods (e.g., a year's lease) that may be required;
3. Provisions for handling returned deposits made on behalf of clients; and
4. An explanation of any tenant escrow accounts that may be established for clients.

When rent assistance is based on a household's income, the following ESG policies and/or procedures must include, at a minimum:

1. Minimum tenant payments (if any);
2. How utilities impact a household's subsidy; and
3. Any requirement for households to report changes in income prior to recertification and how changes in income will impact tenant rent share.

### Fair Market Rent (FMR)

Rental assistance cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD (<http://www.huduser.org/portal/datasets/fmr.html>), as provided under [24 CFR part 888](#), and complies with HUD's standard of rent reasonableness, as established under [24 CFR 982.507](#).

For purposes of calculating rent under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease (other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.

### Rent Reasonableness

The rental assistance paid cannot exceed the actual rental cost, which must be in compliance with HUD's standard of "rent reasonableness."

- "Rent reasonableness" means that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same time period for comparable non-luxury unassisted units.
- To make this determination, the Grantee should consider (a) the location, quality, size, type, and age of the unit; and (b) any amenities, housing services, maintenance and utilities to be provided by the owner. Comparable rents can be checked by using a market study, by reviewing comparable units advertised for rent, or with a note from the property owner verifying the comparability of charged rents to other units owned (for example, the landlord would document the rents paid in other units). For more information, see HUD's worksheet on rent reasonableness at: [www.hud.gov/offices/cpd/affordablehousing/library/forms/rentreasonablechecklist.doc](http://www.hud.gov/offices/cpd/affordablehousing/library/forms/rentreasonablechecklist.doc).
- A grantee must determine and document rent reasonableness for all units for which ESG rental assistance (including arrears) and/or security deposit assistance is being provided.

The requirement applies whether homelessness prevention assistance or rapid re-housing assistance is provided.

## **8 Housing Relocation and Stabilization Services for both Prevention and Rapid Re-housing can Include:**

**Housing Stability Case Management**

**Housing Search and Placement**

### **8.1 Housing Stability Case Management**

ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a household who resides in permanent housing or to assist a household in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the household is seeking permanent housing and cannot exceed 24 months during the period the household is living in permanent housing. Component services and activities consist of:

- Using the centralized or coordinated assessment system to evaluate households applying for or receiving homelessness prevention or rapid re-housing assistance;
- Conducting the initial evaluation including verifying and documenting eligibility, for households applying for homelessness prevention or rapid re-housing assistance;
- Counseling;
- Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
- Monitoring and evaluating household progress;
- Providing information and referrals to other providers;
- Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- Conducting re-evaluations

While providing homelessness prevention or rapid re-housing assistance to a program participant, the grantee must: require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing

stability; and develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations, such as the program participant's current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.

## 8.2 Housing Search and Placement

Services or activities necessary to assist households in locating, obtaining, and retaining suitable permanent housing, include the following:

- Assessment of housing barriers, needs, and preferences;
- Development of an action plan for locating housing;
- Housing search;
- Outreach to and negotiation with owners;
- Assistance with submitting rental applications and understanding leases;
- Assessment of housing for compliance with ESG requirements for habitability, lead-based paint, and rent reasonableness;
- Assistance with obtaining utilities and making moving arrangements; and
- Tenant counseling.

## 9 Administrative Expenses

Up to 7.5 percent of total reimbursed costs over the course of the grant period may be used for administration and must be shared between the Lead Grantee and any Subgrantees. This limit will be monitored on a monthly basis and must be reconciled before the end of the grant period.

Allowable administrative costs are those costs that benefit the organization as a whole. They include the following: executive director/accounting/human resources/IT salaries, benefits, office supplies and equipment; general organization insurance; organization wide audits; board expenses; organization-wide membership fees and dues. This list is not all-inclusive.

Administrative expenses cannot be billed by equal monthly distributions of the budget amount. These costs must be charged to grant cost centers by one of the three following methods:

1. They can be billed directly such as IT services that are billed by the hour;
2. They can be allocated by means of a cost allocation plan; or



3. They can be charged by use of an indirect cost rate which has been appropriately negotiated and approved.

## 10 Housing Inspections and Lead-based Paint Inspections

### 10.1 Housing Inspections

**Grantees are required to conduct initial inspections for clients receiving Emergency Shelter, Rapid Re-Housing, or Prevention Assistance, including assistance that is limited to rental arrears in current housing units.** Lead-based paint visual inspections may also be required (see below).

The unit or shelter must pass inspection before the subsidy is paid. Inspections less than 12 months old performed by other housing providers can be used. Complete records of inspections and follow-up actions must be maintained in the household file.

Grantees may adopt the [HUD Housing Quality Standards \(HQS\)](#) inspection procedures or the Habitability Standards below. If HQS is adopted, inspectors must be certified.

### 10.2 Habitability Standards:

- ✓ *Structure and materials.* The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.
- ✓ *Space and security.* Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.
- ✓ *Interior air quality.* Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
- ✓ *Water supply.* The water supply must be free from contamination.
- ✓ *Sanitary facilities.* Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
- ✓ *Thermal environment.* The housing must have any necessary heating/cooling facilities in proper operating condition.
- ✓ *Illumination and electricity.* The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.

- ✓ *Food preparation.* All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
- ✓ *Sanitary conditions.* The housing must be maintained in a sanitary condition.
- ✓ *Fire safety.*
  - There must be a second means of exiting the building in the event of fire or other emergency.
  - Each unit or shelter must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.
  - The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

HCD does not exempt units or shelters from having to be compliant with local housing codes. Therefore, if there are requirements that are in both the local housing code and the Habitability Standards above, the grantee must comply with the more stringent of the two.

### 10.3 Lead-based Paint Visual Assessments

The lead-based paint visual assessment requirement exists to protect vulnerable families from potential health hazards. To prevent lead poisoning in young children, grantees must comply with the Lead-based Paint Hazard Reduction Act of 1992 and its applicable regulations found at [24 CFR 35](#), subparts A, B, H, J, K, M, and R.

A lead-based paint visual assessment must be completed for all units and shelters that meet the three following conditions:

1. The household moving into or remaining in their current unit is receiving ESG financial assistance. **AND**
2. The unit was constructed prior to 1978. **AND**
3. A child under the age of six or a pregnant woman is, or will be, living in the unit.

A visual assessment must be conducted prior to providing ESG financial assistance to the unit and on an annual basis thereafter (as long as assistance is provided). Visual assessments must be conducted by a HUD-Certified Visual Assessor and must be documented on the HQS or HSS and maintained in the client file.

#### 10.4 Exceptions to the Lead-based Paint Visual Assessment Requirement

There are certain exceptions to the requirement. Visual assessments are not triggered under the following circumstances:

1. It is a zero-bedroom or SRO-sized unit;
2. X-ray or laboratory testing of all painted surfaces by certified personnel has been conducted in accordance with HUD regulations and the unit is officially certified to not contain lead-based paint;
3. The property has had all lead-based paint identified and removed in accordance with HUD regulations;
4. The unit or shelter has already undergone a visual assessment within the past 12 months –obtain documentation that a visual assessment has been conducted; or
5. It meets any of the other exemptions described in [24 CFR Part 35.115\(a\)](#).

If any of the conditions outlined above are met, grantees need to document the condition.

#### 11 Recordkeeping and reporting requirements §576.500

*Homeless status.* The grantee and subgrantees must maintain and follow written intake procedures to ensure compliance with the homeless definition in §576.2. The procedures must require documentation at intake of the evidence relied upon to establish and verify homeless status. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. However, lack of third-party documentation must not prevent an individual or family from being immediately admitted to emergency shelter, receiving street outreach services, or being immediately admitted to shelter or receiving services provided by a victim service provider. Records contained in an HMIS or comparable database used by victim service or legal service providers are acceptable evidence of third-party documentation and intake worker observations if the HMIS retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made; and if the HMIS prevents overrides or changes of the dates on which entries are made.

(1) If the individual or family qualifies as homeless under paragraph (1)(i) or (ii) of the homeless definition in §576.2, acceptable evidence includes a written observation by an outreach worker of the conditions where the individual or family was living, a written referral by another housing or service provider, or a certification by the individual or head of household seeking assistance.

(2) If the individual qualifies as homeless under paragraph (1)(iii) of the homeless definition in §576.2, because he or she resided in an emergency shelter or place not meant for human habitation and is exiting an institution where he or she resided for 90 days or less, acceptable evidence includes the evidence described in paragraph (b)(1) of this section and one of the following:

(i) Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution. All oral statements must be recorded by the intake worker; or

(ii) Where the evidence in paragraph (b)(2)(i) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (b)(2)(i) and a certification by the individual seeking assistance that states he or she is exiting or has just exited an institution where he or she resided for 90 days or less.

(3) If the individual or family qualifies as homeless under paragraph (2) of the homeless definition in §576.2, because the individual or family will imminently lose their housing, the evidence must include:

(i)(A) A court order resulting from an eviction action that requires the individual or family to leave their residence within 14 days after the date of their application for homeless assistance; or the equivalent notice under applicable state law, a Notice to Quit, or a Notice to Terminate issued under state law;

(B) For individuals and families whose primary nighttime residence is a hotel or motel room not paid for by charitable organizations or federal, state, or local government programs for low-income individuals, evidence that the individual or family lacks the resources necessary to reside there for more than 14 days after the date of application for homeless assistance; or

(C) An oral statement by the individual or head of household that the owner or renter of the housing in which they currently reside will not allow them to stay for more than 14 days after the date of application for homeless assistance. The intake worker must record the statement and certify that it was found credible. To be found credible, the oral statement must either: (I) be verified by the owner or renter of the housing in which the individual or family resides at the time of application for homeless assistance and documented by a written certification by the owner or renter or by the intake worker's recording of the owner or renter's oral statement; or (II) if the intake worker is unable to contact the owner or renter, be documented by a written certification by the intake worker of his or her due diligence in attempting to obtain the owner or renter's verification and the written certification by the individual or head of household seeking assistance that his or her statement was true and complete;

(ii) Certification by the individual or head of household that no subsequent residence has been identified; and

(iii) Certification or other written documentation that the individual or family lacks the resources and support networks needed to obtain other permanent housing.

(4) If the individual or family qualifies under paragraph (4) of the homeless definition in §576.2, because the individual or family is fleeing domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions related to violence, then acceptable evidence includes an oral statement by the individual or head of household seeking assistance that they are fleeing that situation, that no subsequent residence has been identified and that they lack the resources or support networks, *e.g.*, family, friends, faith-based or other social networks, needed to obtain other housing. If the individual or family is receiving shelter or services provided by a victim service provider, the oral statement must be documented by either a certification by the individual or head of household; or a certification by the intake worker. Otherwise, the oral statement that the individual or head of household seeking assistance has not identified a subsequent residence and lacks the resources or support networks, *e.g.*, family, friends, faith-based or other social networks, needed to obtain housing must be documented by a certification by the individual or head of household that the oral statement is true and complete, and, where the safety of the individual or family would not be jeopardized, the domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening condition must be verified by a written observation by the intake worker or a written referral by a housing or service provider, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or any other organization from whom the individual or head of household has sought assistance for domestic violence, dating violence, sexual assault, or stalking. The written referral or observation need only include the minimum amount of information necessary to document that the individual or family is fleeing, or attempting to flee domestic violence, dating violence, sexual assault, and stalking.

(c) *At risk of homelessness status.* For each individual or family who receives Emergency Solutions Grant (ESG) homelessness prevention assistance, the records must include the evidence relied upon to establish and verify the individual or family's "at risk of homelessness" status. This evidence must include an intake and certification form that meets HUD specifications and is completed by the grantee and subgrantees. The evidence must also include:

(1) If the program participant meets the criteria under paragraph (1) of the "at risk of homelessness" definition in §576.2:

(i) The documentation specified under this section for determining annual income;

(ii) The program participant's certification on a form specified by HUD that the program participant has insufficient financial resources and support networks; *e.g.*, family, friends, faith-based or other social networks, immediately available to attain housing stability and meets one or more of the conditions under paragraph (1)(iii) of the definition of "at risk of homelessness" in §576.2;

(iii) The most reliable evidence available to show that the program participant does not have sufficient resources or support networks; *e.g.*, family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “homeless” definition. Acceptable evidence includes:

(A) Source documents (*e.g.*, notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears);

(B) To the extent that source documents are unobtainable, a written statement by the relevant third party (*e.g.*, former employer, public administrator, relative) or the written certification by the grantee and subgrantees’ intake staff of the oral verification by the relevant third party that the applicant meets one or both of the criteria under paragraph (1)(ii) of the definition of “at risk of homelessness” in §576.2; or

(C) To the extent that source documents and third-party verification are unobtainable, a written statement by the grantee and subgrantees’ intake staff describing the efforts taken to obtain the required evidence; and

(iv) The most reliable evidence available to show that the program participant meets one or more of the conditions under paragraph (1)(iii) of the definition of “at risk of homelessness” in §576.2. Acceptable evidence includes:

(A) Source documents that evidence one or more of the conditions under paragraph (1)(iii) of the definition (*e.g.*, eviction notice, notice of termination from employment, bank statement);

(B) To the extent that source documents are unobtainable, a written statement by the relevant third party (*e.g.*, former employer, owner, primary leaseholder, public administrator, hotel or motel manager) or the written certification by the grantee and subgrantees’ intake staff of the oral verification by the relevant third party that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition of “at risk of homelessness”; or

(C) To the extent that source documents and third-party verification are unobtainable, a written statement by the grantee and subgrantees’ intake staff that the staff person has visited the applicant's residence and determined that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition or, if a visit is not practicable or relevant to the determination, a written statement by the grantee and subgrantees’ intake staff describing the efforts taken to obtain the required evidence.

(d) *Determinations of ineligibility.* For each individual and family determined ineligible to receive Emergency Solutions Grant (ESG) assistance, the record must include documentation of the reason for that determination.

(e) *Annual income.* For each program participant who receives homelessness prevention assistance, or who receives rapid re-housing assistance longer than one year, the following documentation of annual income must be maintained:

(1) Income evaluation form containing the minimum requirements specified by HUD and completed by the grantee and subgrantees; and

(2) Source documents for the assets held by the program participant and income received over the most recent period for which representative data is available before the date of the evaluation (*e.g.*, wage statement, unemployment compensation statement, public benefits statement, bank statement);

(3) To the extent that source documents are unobtainable, a written statement by the relevant third party (*e.g.*, employer, government benefits administrator) or the written certification by the grantee and subgrantees' intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period for which representative data is available; or

(4) To the extent that source documents and third party verification are unobtainable, the written certification by the program participant of the amount of income the program participant received for the most recent period representative of the income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.

(f) *Program participant records.* In addition to evidence of homeless status or "at risk of homelessness" status, as applicable, records must be kept for each program participant that document:

(1) The services and assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant;

(2) Compliance with the applicable requirements for providing services and assistance to that program participant under the program components and eligible activities provisions at §576.101 through §576.106, the provision on determining eligibility and amount and type of assistance at §576.401(a) and (b), and the provision on using appropriate assistance and services at §576.401(d) and (e); and

(3) Where applicable, compliance with the termination of assistance requirement in §576.402.

(g) *Centralized or coordinated assessment systems and procedures.* The grantee and subgrantees must keep documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the Continuum of Care(s) in accordance with the requirements established by HUD.

(h) *Rental assistance agreements and payments.* The records must include copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by program participants.

(i) *Utility allowance.* The records must document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

(j) *Shelter and housing standards.* The records must include documentation of compliance with the shelter and housing standards in §576.403, including inspection reports.

(k) *Services and assistance provided.* The grantee and subgrantees that are units of general purpose local government must keep records to demonstrate compliance with the maintenance of effort requirement, including records of the unit of the general purpose local government's annual budgets and sources of funding for street outreach and emergency shelter services.

(l) *Matching.* The grantee must keep records of the source and use of contributions made to satisfy the matching requirement in §576.201. The records must indicate the particular fiscal year grant for which each matching contribution is counted. The records must show how the value placed on third-party, noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.

(m) *Conflicts of interest.* The grantee and subgrantees must keep records to show compliance with the organizational conflicts-of-interest requirements in §576.404(a), a copy of the personal conflicts of interest policy or codes of conduct developed and implemented to comply with the requirements in §576.404(b), and records supporting exceptions to the personal conflicts of interest prohibitions.

(n) *Faith-based activities.* The grantee and subgrantees must document their compliance with the faith-based activities requirements under §576.406.

(o) *Other Federal requirements.* The grantee and subgrantees must document their compliance with the Federal requirements in §576.407 and §576.409, as applicable, including:

(1) Records demonstrating compliance with the nondiscrimination and equal opportunity requirements under §576.407(a) and the affirmative outreach requirements in §576.407(b), including: data concerning race, ethnicity, disability status, sex, and family characteristics of persons and households who are applicants for, or program participants in, any program or activity funded in whole or in part with ESG funds.

(2) Records demonstrating compliance with the uniform administrative requirements in 2 CFR part 200.



(3) Records demonstrating compliance with the environmental review requirements, including flood insurance requirements.

(4) Certifications and disclosure forms required under the lobbying and disclosure requirements in 24 CFR part 87.

(5) Data on emergency transfers requested under §576.409, pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of such requests.

(p) *Relocation.* The records must include documentation of compliance with the displacement, relocation, and acquisition requirements in §576.408.

*Confidentiality.* (1) The grantee and subgrantees must develop and implement written procedures to ensure:

(i) All records containing personally identifying information (as defined in HUD's standards for participation, data collection, and reporting in a local HMIS) of any individual or family who applies for and/or receives ESG assistance will be kept secure and confidential;

(ii) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under the ESG will not be made public, except with written authorization of the person responsible for the operation of the shelter; and

(iii) The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the grantee and subgrantees and consistent with state and local laws regarding privacy and obligations of confidentiality.

(2) The confidentiality procedures of the grantee and subgrantees must be in writing and must be maintained in accordance with this section.

(q) *Period of record retention.* All records pertaining to each fiscal year of ESG funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records. Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served.

(r) *Access to records.* (1) *Federal Government rights.* Notwithstanding the confidentiality procedures established under paragraph (x) of this section, the grantee and subgrantees must comply with the requirements for access to records in 2 CFR 200.336.

## 12 Data Collection

Federal rules require each grantee to enter ESG (including match) client data into a Homeless Management Information System (HMIS). Data must be collected in accordance with the Data Collection Directives (Appendix A) and the Agency Partner HMIS Agreement (see Appendix B).

Each grantee must follow all state and federal laws governing HMIS, including collecting informed written consent from program participants, not denying service based solely on program participant refusal to provide data to an HMIS, protecting program participant confidentiality, not collecting personally identifying information from program participants that are victims of domestic violence, and other requirements defined in [RCW 43.185C.030](#), [43.185C.180](#), and [VAWA Reauthorization Section 605](#).

Program participant data collected by HMIS systems will be transmitted to HCD and then sent to DSHS for additional analysis. Written program participant consent forms should reflect this data transmittal. Program participant data will be used for research purposes only and only viewed by research staff and HMIS system administrators. Program participant data will not be disclosed to staff involved in determining program eligibility, or used in any way to determine program eligibility.

## 13 Termination of Participation, Denial and Grievance Procedures

Grantees must have written termination, denial, and grievance policies and/or procedures. The policies and/or procedures should be readily available to households either in written information or by posting the policy in a public place. It is important to effectively communicate these policies and/or procedures to households and ensure that they are fully understood.

### 13.1 Termination of Participation and Grievance

Causes for termination may include, but are not limited to, failure to abide by any agreed upon requirements and client fraud. A grievance procedure must include:

1. Written notice to the household containing a clear statement of the reasons for termination;
2. A review of the decision, in which the household is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision. This may include the household's right to question or confront staff involved; and
3. Prompt written notice of the final decision.

### 13.2 Denial and Grievance

Causes of denial of assistance include, but are not limited to, the household's ineligibility or failure to provide verifiable evidence of eligibility, etc. Established procedures should describe:

1. Circumstances in which a household may not qualify or would be denied;
2. Notification of denial; and
3. A household's right to review a grantee's decision.

### 14 Confidentiality of Client Records

Grantees must have policies and/or procedures to ensure that client records are maintained in a confidential manner as per RCW 43.185C.030 and keep written records or files pertaining to households under lock and key with designated personnel granted access to those files.

### 15 Summary List of Required Policies and Procedures

- ✓ For coordination among homeless housing and assistance providers and mainstream service providers in their service area.
- ✓ For admission, diversion, referral and discharge by emergency shelters including length of stay, special needs populations and individuals and families with high barriers to housing
- ✓ For determining and prioritizing which households will receive Rapid Re-Housing and Prevention Assistance
- ✓ Standards for determining amount of rent assistance, length of assistance and if there will be any adjustments over time
- ✓ Standards for determining type, amount, and duration of housing relocation and stabilization services
- ✓ Termination of participation, denial, and grievance procedures
- ✓ Confidentiality of client records

### 16 Billing Procedures

Lead Grantees must bill HCD on a monthly or quarterly basis for reimbursement of allowable costs using an ESG Invoice Form. Exceptions to the single billing per month can be made by HCD on a case-by-case basis. Invoices are due on the 20th of month following the provision of services. (Final invoices for a biennium may be due sooner than the 20th for the final report month.) If the Lead Grantee fails to file an invoice within a three-month period without a reasonable explanation HCD will suspend payments, notify the Lead Grantee and take follow-up action that may include terminating the grant agreement.

## 17 Match

Lead Grantee is responsible for matching 100% of grant expenditures (1 to 1 ratio). The match requirement may be met using any source (other than ESG) including state Consolidated Homeless Grant (CHG), local or private funding for any eligible activity described in these guidelines. Match expenditures will be represented on each invoice.

Matching contributions must meet all requirements that apply to ESG funds provided by HUD (excluding expenditure limits outlined in the grant agreement). This includes requirements such as documentation requirements, eligibility requirements, and eligible costs. All clients served with matching contributions must be entered in HMIS in accordance with these guidelines. The Lead Grantee and sub grantees are not required to differentiate between clients served with matching contributions and those served with regular ESG funds. However, grantees must be able to identify all clients served by ESG funds (match or otherwise).

## 18 Appendix A - Data Collection Directives

### Client Records and Record Retention

Grantees must enter a record for every client served with ESG funds in the state homeless data warehouse (usually referred to as "HMIS") or in a local data collection system that meets HUD/HMIS data standards. The client record may contain personally identifying data or it may not, depending on whether the client provided informed, written consent to have their identifiers stored in HMIS. As a general rule, HCD does not want personal identifiers for any client who identifies themselves as a victim of domestic violence, sexual assault, dating violence or stalking.

Agencies must develop and adopt policies governing the retention of paper records containing personally identifying information derived from a Homeless Management Information system. The policy must define how long paper records are retained after they are no longer being actively utilized, and the process that will be used to destroy the records to prevent the release of personally identifying information. The policy must require the destruction of the paper records derived from an HMIS no longer than seven years after the last day the person was served by the organization.

**Funding Decisions & Data Collection**

Lead Grantees must not make funding or resource allocation decisions of ESG funds based on whether a Subgrantee enters *personal identifiers* for victims of domestic violence, sexual assault, dating violence or stalking or other clients who have not provided informed, written consent. The intent of this guideline is to ensure that clients do not feel coerced into providing consent to share data at any time in any local jurisdiction receiving CHG funds and participating in HMIS.

Data quality is of high concern for purposes of accurate reporting out of HMIS. HCD recommends that local jurisdictions continue to strive for increased data quality including 1) monitoring completeness of required data elements and 2) monitoring responsible use of HMIS at local agencies. Some suggestions for how to appropriately include data quality in HMIS as a part of local funding decisions include, but are not limited to:

- ✓ Completeness of required data elements:
  - Exclude clients who “refused consent” from the equation  
 e.g.: Instead of  $\frac{\# \text{ NULL values}}{\text{All client records}} = \%$  use  $\frac{\# \text{ NULL values}}{\text{Clients who DIDN'T refuse consent}} = \%$
  
- ✓ Responsible use of HMIS at local agencies:
  - Develop a “baseline” rate of “refused consent” locally using HMIS data
  - Determine each agency’s rate of “refused consent” as a % deviation from the standard
  - Add or subtract points for less or more deviation from the standard rate, depending on reasonableness
  - Further training, technical assistance, or other guidance may be more appropriate in this situation instead of, or in addition to, penalties assessed during funding competitions

All local jurisdictions interested in including a measure of HMIS data quality as part of a local funding decision for CHG funding are required to submit a proposal to HCD for final approval prior to being used in local applications/competitions for funding.

**Informed Consent** – According to RCW 43.185C.180, personally identifying information about homeless individuals for the Washington homeless client management information system may only be collected after having obtained informed, reasonably time limited, (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals’ rights regarding their personally identifying information. Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals receive: (i) information about the expected duration of their participation in the Washington homeless client management information system; (ii) an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information; (iii) an explanation regarding whom to contact in the event of injury to the individual related to the Washington homeless client management information system; (iv) a description of any reasonably foreseeable risks to the homeless individual; and (v) a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

### **Personal Identifiers – “Personally Identifying Data”**

Individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, could include:

- ✓ A first and last name;
- ✓ A home or other physical address;
- ✓ Contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);
- ✓ A social security number; and
- ✓ Any other information, including date of birth, racial or ethnic background, or religious affiliation that, in combination with any other non-personally identifying information, would serve to identify any individual collecting “non-identified” client records.

### **Data Entry for “Non-identified” Client Records**

- ✓ Leave the “Name” fields NULL (blank). Do not write in names *such as “Anonymous” or “Refused” as that will compromise data quality at the state level.*
- ✓ **If there are no personal identifiers** for a client record, there needs to be an “Agency Unique ID” of some sort created and stored in the system that can be used by the

agency to access the record at a later time (and should not be an algorithm of elements that can lead to the client’s identification).

- ✓ Enter an approximate year of birth – subtract or add one to three years to the actual year of birth.
- ✓ Enter “Refused” for gender, race, and ethnicity when the real answers to those questions, in combination with other data, can potentially lead to identification of the client.
- ✓ Enter any additional answer to the universal, program-specific and optional data elements (from the March 2010 HMIS Data Standards) only if the answers to those questions, in combination with other data, will not lead to the identification of the client.
- ✓ Program Entry Date, Program Exit Date and Service Date are generally required unless those elements can be used in combination with other elements to identify the client. If this is the case, please enter an approximate Program Entry Date, Program Exit Date and Service Date by adding one to three months to the actual dates and keeping the “Length of Stay” (the number of days between program entry and program exit) consistent with reality. Keeping the approximate service date, if used, within the actual service date’s reporting period is also recommended.

Submitting data to the state data warehouse – If a grantee is not entering data directly into the state data warehouse, the data being entered into the local HMIS must be submitted on a quarterly basis no later than the 10<sup>th</sup> day following the end of each quarter to the state data warehouse via the HUD Standard 3.0 XML schema.

## 19 Appendix B – Agency Partner HMIS Agreement

The Homeless Management Information System (“HMIS”) is a client management system that maintains information regarding the characteristics and service needs of Clients for a variety of reasons, including the provision of more effective and streamlined services to Clients and the creation of information that communities can use to determine the use and effectiveness of services.

Ultimately, when used correctly and faithfully by all involved parties, the HMIS is designed to benefit multiple stakeholders, including provider agencies, persons who are homeless, funders and the community through improved knowledge about people who are homeless, their services and service needs and a more effective and efficient service delivery system.

The Homeless Housing and Assistance Act of 2005 requires the Department of HCD to collect HMIS data in the form of a data warehouse. Each homeless service provider will submit

HMIS data to HCD.

Agency and the Department of HCD agree as follows:

General Understandings:

In this Agreement, the following terms will have the following meanings:

"Client" refers to a consumer of services;

"Partner Agency" refers generally to any Agency participating in HMIS.

"Agency staff" refers to both paid employees and volunteers.

"HMIS" refers to the HMIS system administered by HCD.

"Enter(ing)" or "entry" refers to the entry of any Client information into HMIS.

"Shar(e)(ing)," or "Information Shar(e)(ing)" refers to the sharing of information which has been entered in HMIS with another Partner Agency.

"The Balance of State Continuum of Care Steering Committee" or "Steering Committee" refers to a HCD advisory body that serves in a consultative and counseling capacity to HCD as the system administrator. The Steering Committee is comprised of representatives from the State, the Balance of State Continuum of Care regions and at large members.

"Identified Information" refers to Client data that can be used to identify a specific Client. Also referred to as "Confidential" data or information.

"De-identified Information" refers to data that has specific Client demographic information removed, allowing use of the data **without identifying** a specific Client. Also referred to as "non-identifying" information.

Agency understands that when it enters information into HMIS, such information will be available to HCD staff who may review the data to administer HMIS; to conduct analysis in partnership with the Research and Data Analysis (RDA) division at the Department of Social and Health Services (DSHS); and to prepare reports that may be submitted to others in de-identified form **without** individual identifying Client information.

Agency understands that Agency will have the ability to indicate whether information Agency entered into HMIS may be shared with and accessible to Partner Agencies in HMIS system.

Agency is responsible for determining and designating in HMIS whether information may or may not be shared.

Confidentiality:

Agency will not:

enter information into HMIS which it is not authorized to enter; and

will not designate information for sharing which Agency is not authorized to share, under any relevant federal, state, or local confidentiality laws, regulations or other restrictions applicable to Client information. By entering information into HMIS or designating it for sharing, Agency represents that it has the authority to enter such information or designate it for sharing.

If Agency is a "covered entity" whose disclosures are restricted under HIPAA (45 CFR 160 and 164) or is subject to Federal Drug and Alcohol Confidentiality Regulations (42 CFR Part 2), a fully executed Business Associate or Business Associate/Qualified Service Organization Agreement must be attached to this agreement before information may be entered. Sharing of information will not be permitted otherwise. More information about "covered entities" can be found here: <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/index.html>.

If Agency is subject to any laws or requirements which restrict Agency's ability to either enter or



authorize sharing of information, Agency will ensure that any entry it makes and all designations for sharing fully comply with all applicable laws or other restrictions. Agency shall comply with the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) and Washington State RCW 43.185C.030. No Identified Information may be entered into HMIS for Clients in licensed domestic violence programs or for Clients fleeing domestic violence situations.

To the extent that information entered by Agency into HMIS is or becomes subject to additional restrictions, Agency will immediately inform HCD in writing of such restrictions.

Information Collection, Release and Sharing Consent:

**Collection of Client Identified information:** An agency shall collect client identified information only when appropriate to the purposes for which the information is obtained or when required by law. An Agency must collect client information by lawful and fair means and, where appropriate, with the knowledge or consent of the individual.

**Obtaining Client Consent:** In obtaining Client consent, each adult Client in the household must sign the *HMIS Client Release of Information* (or a HCD-approved equivalent release document) to indicate consent to enter Client identified information into HMIS. If minors are present in the household, at least one adult in the household must consent minors by writing their names on the *HMIS Client Release of Information*. If any adult member of a household does not provide written consent, identifying information may not be entered into HMIS for *anyone* in the household. An unaccompanied youth may sign the consent form for themselves. Do not enter personally identifying information into HMIS for clients who are in licensed domestic violence agencies or currently fleeing or in danger from a domestic violence, dating violence, sexual assault or stalking situation.

Telephonic consent from the individual may temporarily substitute written consent provided that written consent is obtained at the first time the individual is physically present at Agency. A Client may withdraw or revoke consent for Client identified information collection by signing the *HMIS Revocation of Consent*. If a Client revokes their consent, Agency is responsible for immediately contacting HCD and making appropriate data modifications in HMIS to ensure that Client's personal identified information will not be shared with other Partner Agencies or visible to the Agency staff within the system.

This information is being gathered for the collection and maintenance of a research database and data repository. The consent is in effect until the client revokes the consent in writing.

**No Conditioning of Services:** Agency will not condition any services upon or decline to provide any services to a Client based upon a Client's refusal to allow entry of identified information into HMIS.

**Re-release Prohibited:** Agency agrees not to release any Client identifying information received from HMIS to any other person or organization without written informed Client consent, or as required by law.

**Client Inspection/Correction:** Agency will allow a Client to inspect and obtain a copy of his/her own personal information except for information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding. Agency will also allow a Client to correct information that is inaccurate. Corrections may be made by way of a new entry that is in addition to but is not a replacement for an older entry.

**Security:** Agency will maintain security and confidentiality of HMIS information and is

responsible for the actions of its users and for their training and supervision. Among the steps Agency will take to maintain security and confidentiality are:

**Access:** Agency will permit access to HMIS or information obtained from it only to authorized Agency staff who need access to HMIS for legitimate business purposes (such as to provide services to the Client, to conduct evaluation or research, to administer the program, or to comply with regulatory requirements). Agency will limit the access of such staff to only those records that are immediately relevant to their work assignments.

**User Policy:** Prior to permitting any user to access HMIS, Agency will require the user to sign a **User Policy, Responsibility Statement & Code of Ethics** (“User Policy”), which is found on the HCD web page ([www.HCD.wa.gov/hmiswa](http://www.HCD.wa.gov/hmiswa)) and is incorporated into this agreement and may be amended from time to time by HCD. Agency will comply with, and enforce the User Policy and will inform HCD immediately in writing of any breaches of the User Policy

**Computers:** Security for data maintained in HMIS depends on a secure computing environment. Computer security is adapted from relevant provisions of the Department of Housing and Urban Development’s (HUD) “Homeless Management Information Systems (HMIS) Data and Technical Standards Notice” (Docket No. FR 4848-N-01; see <http://www.hud.gov/offices/cpd/homeless/hmis/standards/index.cfm>). Agencies are encouraged to directly consult that document for complete documentation of HUD’s standards relating to HMIS.

Agency agrees to allow access to HMIS only from computers which are:

- owned by Agency or approved by Agency for the purpose of accessing and working with HMIS.
- protected from viruses by commercially available virus protection software.
- protected with a software or hardware firewall.
- maintained to insure that the computer operating system running the computer used for the HMIS is kept up to date in terms of security and other operating system patches, updates, and fixes.
- accessed through web browsers with 128-bit encryption (e.g., Internet Explorer, version 6.0). Some browsers have the capacity to remember passwords, so that the user does not need to type in the password when returning to password-protected sites. This default shall **not** be used with respect to HCD’ HMIS; the end-user is expected to physically enter the password each time he or she logs on to the system.
- staffed at all times when in public areas. When computers are not in use and staff is not present, steps should be taken to ensure that the computers and data are secure and not publicly accessible. These steps should minimally include: logging off the data entry system, physically locking the computer in a secure area, or shutting down the computer entirely.

**Passwords:** Agency will permit access to HMIS only with use of a User ID and password, which the user may not share with others. Written information pertaining to user access (e.g. username and password) shall not be stored or displayed in any publicly accessible location. Passwords shall be at least eight characters long and meet industry standard complexity requirements, including, but not limited to, the use of at least one of each of the following kinds of characters in the passwords: Upper and lower-case letters, and numbers and symbols. Passwords shall not be, or include, the username, or the HMIS name. In addition, passwords should not consist entirely of any word found in the common dictionary or any of the above spelled backwards. The use of default passwords on initial entry into the HMIS application is allowed so long as the .default password is changed on first use. Passwords and user names shall be consistent with guidelines issued from time to time by HUD and/or HCD.

**Training/Assistance:** Agency will permit access to HMIS only after the authorized user receives appropriate confidentiality training including that provided by HCD. Agency will also conduct ongoing basic confidentiality training for all persons with access to HMIS and will train all persons who may receive information produced from HMIS on the confidentiality of such information. Agency will participate in such training as is provided from time to time by HCD. HCD will be reasonably available during HCD defined weekday business hours for technical assistance (i.e. troubleshooting and report generation).

**Records:** Agency and HCD will maintain records of any disclosures of Client identifying information either of them makes of HMIS information for a period of **seven** years after such disclosure. On written request of a Client, Agency and HCD will provide an accounting of all such disclosures within the prior **seven**-year period. HCD will have access to an audit trail from HMIS so as to produce an accounting of disclosures made from one Agency to another by way of sharing of information from HMIS.

**Retention of paper copies of personally identifying information:** Agencies must develop and adopt policies governing the retention of paper records containing personally identifying information derived from a Homeless Management Information system. The policy must define how long paper records are retained after they are no longer being actively utilized, and the process that will be used to destroy the records to prevent the release of personally identifying information. The policy must require the destruction of the paper records derived from an HMIS no longer than seven years after the last day the person was served by the organization.

**Information Entry Standards:**

Information entered into HMIS by Agency will be truthful, accurate and complete to the best of Agency's knowledge.

Agency will **not** solicit from Clients or enter information about Clients into the HMIS database unless the information is required for a legitimate business purpose such as to provide services to the Client, to conduct evaluation or research, to administer the program, or to comply with regulatory requirements.

Agency will only enter information into HMIS database with respect to individuals that it serves or intends to serve, including through referral.

Agency will enter all data for a particular month into HMIS database by the 5<sup>th</sup> business day of the following month. Additionally, Agency will make every attempt enter all data for a particular week by the end of that week.

Agency will not alter or over-write information entered by another Agency.

**Use of HMIS:**

Agency will not access identifying information for any individual for whom services are neither sought nor provided by the Agency. Agency may access identifying information of the Clients it serves and may request via writing access to statistical, non-identifying information on both the Clients it serves and Clients served by other HMIS participating agencies.

Agency may report non-identifying information to other entities for funding or planning purposes. Such non-identifying information shall not directly identify individual Clients.

Agency and HCD will report only non-identifying information in response to requests for information from HMIS unless otherwise required by law.

Agency will use HMIS database for legitimate business purposes only.

Agency will not use HMIS in violation of any federal or state law, including, but not limited to, copyright, trademark and trade secret laws, and laws prohibiting the transmission of material, which is threatening, harassing, or obscene.

Agency will not use the HMIS database to defraud federal, state or local governments, individuals or entities, or conduct any illegal activity.

**Proprietary Rights of the HMIS:**

Agency shall not give or share assigned passwords and access codes for HMIS with any other Agency, business, or individual. Each user shall request their own login and password.

Agency shall take due diligence not to cause in any manner, or way, corruption of the HMIS database, and Agency agrees to be responsible for any damage it may cause.

Steering Committee: HCD will consult with the Steering Committee from time to time regarding issues such as revision to the form of this Agreement. Written Agency complaints that are not resolved may be forwarded to the Steering Committee, which will try to reach a voluntary resolution of the complaint.

Limitation of Liability and Indemnification: No party to this Agreement shall assume any additional liability of any kind due to its execution of this agreement of participation in the HMIS. It is the intent of the parties that each party shall remain liable, to the extent provided by law, regarding its own acts and omissions; but that no party shall assume additional liability on its own behalf or liability for the acts of any other person or entity except for the acts and omissions of their own employees, volunteers, agents or contractors through participation in HMIS. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement creates no rights in any third party.

Limitation of Liability. HCD shall not be held liable to any member Agency for any cessation, delay or interruption of services, nor for any malfunction of hardware, software or equipment.

Disclaimer of Warranties. HCD makes no warranties, express or implied, including the warranties or merchandise ability and fitness for a particular purpose, to any Agency or any other person or entity as to the services of the HMIS to any other matter.

**Additional Terms and Conditions:**

Agency will abide by such guidelines as are promulgated by HUD and/or HCD from time to time regarding administration of the HMIS.

Agency and HCD intend to abide by applicable law. Should any term of this agreement be inconsistent with applicable law, or should additional terms be required by applicable law, Agency and HCD agree to modify the terms of this agreement so as to comply with

applicable law.

Neither HCD nor Agency will transfer or assign any rights or obligations regarding HMIS without the written consent of either party.

Agency agrees to indemnify and hold HCD and its agents and staffs harmless from all claims, damages, costs, and expenses, including legal fees and disbursements paid or incurred, arising from any breach of this Agreement or any of Agency's obligations under this Agreement. This Agreement will be in force until terminated by either party. Either party may terminate this agreement at will with 20 days written notice. Either party may terminate this agreement immediately upon a material breach of this Agreement by the other party, including but not limited to the breach of the HCD Security Policy by Agency.

If this Agreement is terminated, Agency will no longer have access to HMIS. HCD and the remaining Partner Agencies will maintain their right to use all of the Client information previously entered by Agency except to the extent a restriction is imposed by Client or law. Copies of Agency data will be provided to the Agency upon written request of termination of this agreement. Data will be provided on CDs or media. Unless otherwise specified in writing, copies of data will be delivered other mutually agreed upon to Agency within fourteen (14) calendar days of receipt of written requests for data copies.

## 20 Appendix C – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Appendix, shall each have the following definitions:
  - a. "Authorized User(s)" means an individual or individuals with an authorized business requirement to access DSHS Confidential Information.
  - b. "Hardened Password" means a string of at least eight characters containing at least one alphabetic character, at least one number and at least one special character such as an asterisk, ampersand or exclamation point.
  - c. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.
  - d. "Contractor" means CHG Lead/subgrantees.
2. **Data Transport.** When transporting DSHS Confidential Information electronically, including via email, the Data will be protected by:
  - a. Transporting the Data within the (State Governmental Network) SGN or Contractor's internal network, or;
  - b. Encrypting any Data that will be in transit outside the SGN or Contractor's internal network. This includes transit over the public Internet.
3. **Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:
  - a. **Hard disk drives.** Data stored on local workstation hard disks. Access to the Data will be

restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.

- b. **Network server disks.** Data stored on hard disks mounted on network servers and made available through shared folders. Access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data as outlined in Section 5. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secured Area. When not in use for the contracted purpose, such discs must be locked in a drawer, cabinet or other container to which only Authorized Users have the key, combination or mechanism required to access the contents of the container. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secured Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secured Area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract

**g. Data storage on portable devices or media.**

(1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:

- (a) Encrypt the Data with a key length of at least 128 bits
- (b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.
- (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.

Physically Secure the portable device(s) and/or media by

- (d) Keeping them in locked storage when not in use
  - (e) Using check-in/check-out procedures when they are shared, and
  - (f) Taking frequent inventories
- (2) When being transported outside of a Secured Area, portable devices and media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data.
- (3) Portable devices include, but are not limited to; smart phones, tablets, flash memory devices (e.g. USB flash drives, personal media players), portable hard disks, and laptop/notebook/netbook computers if those computers may be transported outside of a Secured Area.

(4) Portable media includes, but is not limited to; optical media (e.g. CDs, DVDs), magnetic media (e.g. floppy disks, tape), or flash media (e.g. CompactFlash, SD, MMC).

**h. Data stored for backup purposes.**

(1) DSHS data may be stored on portable media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition

(2) DSHS Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition.

**4. Data Segregation.**

- a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.

- b. DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS data. And/or,
- c. DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,
- d. DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,
- e. DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.
- f. When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.
- g. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

**5. Data Disposition.** When the contracted work has been completed or when no longer needed, except as noted in Section 3. Protection of Data b. Network Server Disks above, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

Data Stored On:	Will be Destroyed By:
Server or workstation hard disks, or  Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a “wipe” utility which will overwrite the Data at least three (3) times using either random or single character data, or  Degaussing sufficiently to ensure that the Data cannot be reconstructed, or  Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding



- 6. Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the Department of HCD Contact designated in the Grant Agreement within one (1) business day of discovery.

**Data shared with Subcontractors.** If DSHS Data access provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract.

**Statement of Work**

The Contractor shall provide the services and staff, and otherwise do all things necessary for, or incidental to the performance of work as set forth below:

The Contractor will work with the DSHS contact listed on page one (1) of this Contract to ensure personnel who specifically require access to the Data in the performance of their assigned duties, are granted access to the appropriate BVS Housing Profile in accordance with the terms and conditions of this Contract.

**Consideration**

DSHS will provide the information under this Contract at no charge to the Contractor.

Each party to this Contract shall be responsible for any expenses incurred in providing or receiving the Data.

This includes any costs for hardware/software upgrades, and costs to improve any systems or processors that will enable the Contractor to access the Data.

In exchange for the receipt of Data, the Contractor agrees to abide by the Terms and Conditions in this Contract.

The Contractor shall be responsible for any charges for Data loss.

**Data Sharing.**

Purpose:

Activity for which the Data is needed:

To allow the Contractor’s Housing Program Providers to verify public assistance eligibility, improve access to housing assistance for recipients of CSD programs, and improve HEN Referral program efforts.

Description of Data

Data Elements:

The Housing Profile consists of the following BVS data elements:

- i. Client First Name
- ii. Client Middle Initial
- iii. Client Last Name
- iv. CSO, HCS, or HCA office
- v. Living Arrangement

- vi. Month of the Year (up to the past 12-months)
- vii. Program Type
- viii Household Number
- ix. DSHS Benefit
- x. Earned Income
- xi. Unearned Income
- xii. WorkFirst Sanction Amount
- xiii Intentional Overpayment Amount
- xiv. HEN Eligibility

Time frames(s) for Data disclosure or exchange:

The duration of the Contract or as amended.

Conditions under which, if any, that Data disclosed or exchanged can be linked to other data:

There are no conditions that permit linking of the Data with other data.

Data Access or Transfer

Method.

The Contractor shall access information via the DSHS BVS secure website.

Access to this website requires the user to have an email address approved by DSHS. DSHS will provide the initial password and the strong password must be changed to a unique strong password.

Requirement for Access.

Access to data shall be limited to the Contractor, who specifically requires access to the Data to perform their assigned duties.

The Contractor shall provide the DSHS Contact listed on page one (1) of this Contract, with the names, email addresses, and other contact information as required by DSHS, for all Contractor personnel requesting BVS access.

The Contractor must report within one (1) business day to the DSHS Contact person listed on page one (1) of this Contract after receiving notice that any Contractor personnel with access to the Data is terminated from employment or when their job duties no longer require access to the Data.

Prior to making Data available to their personnel, the Contractor shall notify all personnel of the use, confidentiality, and nondisclosure requirements.

The Contractor shall complete and sign a DSHS Notice of Nondisclosure form and agree to adhere to the use and disclosure requirements before accessing the Data.

The signed DSHS Notice of Nondisclosure forms shall be maintained by the Contractor and be submitted to DSHS upon request.

Frequency of Exchange.

Daily Access

Limitations on Use of Data

The Contractor will access client information specific only to the Contractor's caseload.

CSD is the sole authority for any BVS system changes, suspension to BVS access, or BVS data enhancements.

If the Data and analyses generated by the Data Recipient contain personal information about DSHS clients, any and all reports utilizing this Data shall be subject to review and approval by the Data Provider prior to publication in any medium or presentation in any forum.

Any and all reports using confidential DSHS data must have all personal identifying information removed.

### **Confidentiality and Nondisclosure**

Both parties may use Personal information and other information or Data gained by reason of this Contract only for the purposes of this Contract.

Neither party shall disclose, transfer, or sell any such information to any party, except as provided by law or, in the case of Personal information, without the prior written consent of the person to whom the Personal information pertains.

The Data to be shared under this Contract is confidential in nature and is subject to state and federal confidentiality requirement that bind the Contractor to protect the confidentiality of the personal information contained in Economic Services Administration data. The Contractor may use personal data and other data gained by reason of this Contract only for the purpose of this Contract.

The Contractor shall maintain the confidentiality of personal data in accordance with state and federal laws, and shall have adequate policies and procedures in place to ensure compliance with confidentiality requirements, including restrictions on re-disclosure. The Contractor agrees to keep client information according to DSHS policy and procedures.

Neither party shall link the Data with Personal information or individually identifiable data from any other source, nor re-disclose or duplicate the Data unless specifically authorized to do so in this Contract or by the prior written consent of the other party.

The Contractor shall take reasonable precautions to secure against unauthorized physical and electronic access to client data, which shall be protected in a manner that prevents unauthorized persons, including the general public, from retrieving data by means of computer, remote terminal, or other means.

#### Contract Suspension:

DSHS may take certain actions in the event the Contractor is investigated by a local, county, state, or federal agency, for a matter which DSHS determines may adversely affect the access to or use of, Data provided under this Contract. DSHS May, without prior notice, suspend the access to or use of Data, and disallow the person(s) involved in the allegation(s) from providing services or having contact with clients pending final resolution of the investigation.

#### Disputes

Either party may submit a request for resolution of a Contract dispute (rates set by law, regulation, or DSHS policy are not disputable). The requesting party shall submit a written statement identifying the issue(s) in dispute and the relative positions of the parties. A request for a dispute resolution must include the Contractor's name, address, and Contract number, and be mailed to the address listed below within thirty (30) calendar days after the party could reasonably be expected to have knowledge of the issue in dispute.

DSHS/Community Services Division/Attn: Contracts Unit  
PO Box 45440  
Olympia, WA 98504-5440

1. **Data Transport.** When transporting DSHS Confidential Information electronically, including via email, the data will be protected by:
  - a. Transporting the data within the (State Governmental Network) SGN or contractor's internal network, or;
  - b. Encrypting any data that will be in transit outside the SGN or contractor's internal network. This includes transit over the public Internet.
2. **Protection of Data.** The Grantee agrees to store data on paper only, no electronic storage is allowable:
  - a. **Paper documents.** Any paper records must be protected by storing the records in a secure area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.
3. **Data Disposition.** When the contracted work has been completed or when no longer needed, data shall be returned to DSHS or destroyed. Media on which data may be stored and associated

acceptable methods of destruction are as follows:

<b>Data stored on:</b>	<b>Will be destroyed by:</b>
Paper documents with sensitive or confidential data	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of data will be protected.
Paper documents containing confidential information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Magnetic tape	Degaussing, incinerating or crosscut shredding

**4. Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared data must be reported to HCD within one (1) business day of discovery.

This Agreement will be in force until terminated by either party. Either party may terminate this agreement at will with 20 days written notice. Either party may terminate this agreement immediately upon a material breach of this Agreement by the other party, including but not limited to the breach of the HCD Security Policy by Agency.

If this Agreement is terminated, Agency will no longer have access to HMIS. HCD and the remaining Partner Agencies will maintain their right to use all of the Client information previously entered by Agency except to the extent a restriction is imposed by Client or law. Copies of Agency data will be provided to the Agency upon written request of termination of this agreement. Data will be provided on CDs or other mutually agreed upon media. Unless otherwise specified in writing, copies of data will be delivered to Agency within fourteen (14) calendar days of receipt of written requests for data copies.



# City of Oroville

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
 Oroville, CA 95965-4897  
 (530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

## Zoning Code Interpretation

### **Rescue Mission Emergency Palette Shelter Project @ 4248 Lincoln Blvd in Oroville, a City-supported project.**

The existing Rescue Mission at 4250 South Lincoln Blvd. has been in operation many years prior to its annexation into the City limits in 2020. Now the City is partnering with the Rescue Mission to install a "Palette Shelter" with shelter for approximately 110 individuals, which is a form of Emergency Shelter. The proposed location is APN 035-200-034, 4248 Lincoln Boulevard. Site planning and engineering for sewer, water, and power capacity are now underway. The city must also first make a declaration of emergency under the California Building Code Appendix X

The Zoning Administrator has determined that this project is an allowable use in the CLM (Commercial Light Manufacturing) Zone, subject to obtaining a Use Permit, as discussed below.

City-sponsored projects: Even though the city has obtained the Encampment Resolution grant for this activity, the Rescue Mission will be the subrecipient responsible for installing and operating the shelter. The subrecipient of has agreed in section IX to "be responsible for obtaining any and all permits, licenses, and approvals required for .....design, construction, or operation and maintenance of activities." A Use permit and Building permits will thus be required for the palette shelter.

Zoning: Oroville Municipal Code Table 17.32.010-1 does not list Emergency shelters as an allowed use in the CLM (Commercial Light Manufacturing) district. However, Under Oroville Municipal Code 17.08.090 the Zoning Administrator may make an interpretation, backed up by the four findings below, that a use that is not listed can be allowed if it is equivalent to a listed use. Accordingly, the proposed emergency shelter is equivalent to and/or less intense than substance abuse counseling, a hotel or motel, a public school, or a meeting facility. The stated potential for overnight camping is equivalent to an RV Park, which requires a Use Permit. The shelter is thus allowable, subject to the same **Use Permit and Zoning Clearance** required of the other uses.

Note that OMC 17.16.210 limits emergency shelter capacity to 30 persons nightly. The City Council could approve more persons nightly via a Use Permit if there are overflow beds and camping.



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### Findings under OMC 17.08.090

1 – The property’s use is equivalent to the use of one or more allowable uses in the zoning district.

The zoning district for the property, CLM, with a Use Permit, allows for heavy commercial land uses including substance abuse counseling, a hotel or motel, a public school, and a meeting facility, which are just as intense as the proposed project. Only a few vehicles and approximately 110 people will be on site at any one time with much of the same vehicular, noise, and emissions common to schools and meeting facilities.

2 – The proposed use will not involve a higher level of activity, density or intensity than other allowable uses for the district.

The zoning district for the property, CLM, allows for heavy commercially focused land uses, which are more intense than the proposed project. Only a few parking spaces and roughly 110 people will be on site at any one time without the related vehicular, noise, and emissions so common to those other uses.

3 – The proposed use will meet the purpose and intent of the CLM district.

In addition to light manufacturing, the CLM District includes providing intensive commercial uses, as well as the light industrial uses that are necessary for the overall welfare of the community” (see OMC 17.32.070). The site was formerly used for heavy equipment rental but is now owned by the adjacent Rescue Mission. The proposed use is less intense than the former heavy equipment rental.

4 – The proposed use is consistent with the goals, objectives and policies of the general plan.

The property has a General Plan land use designation of RBS (Retail and business services). This designation provides for “business activities that offer goods and services to the community”, with zoning specifying where specific uses are allowed. The emergency shelter at this location is clearly a desired service to the community.

Date: \_\_\_\_\_

Zoning Administrator: \_\_\_\_\_

Noe also that AB2339, recently enacted, has various new emergency shelter requirements, which have been compared to our existing emergency shelter ordinance. See attached.





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Analysis of City of Oroville Development Standards for Emergency Shelters per Municipal Code 17.16.210, compared to requirements imposed by AB 2339

AB 2339 limitations on written, objective standards	City of Oroville Requirements	Issues/Notes
Maximum number of beds or persons permitted to be served nightly by facility	Occupancy cannot exceed 30 residents at any one time.	In compliance. More beds possible via a use permit.
Sufficient parking to accommodate all staff, provided requirements are not greater than other residential/commercial uses within the same zone	Not addressed	In compliance, City could add this if they wish
Size and location of exterior and interior onsite waiting and client intake areas	Not addressed	In compliance, City could add this if they wish
The provision of onsite management	Full time onsite management	In compliance
The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart	No two emergency shelters within 300 feet from each other	In compliance, they need to ensure that any future permits are not subject to a requirement of more than 300 feet apart
Length of stay	Six months during any 12 consecutive month period	In compliance
Lighting	Not addressed	In compliance, City could add this if they wish
Security during the hours the emergency shelter is in operation	On-site security	In compliance
	Minimum 50 gross feet of living space	Not one of the standards in AB 2339. It would be worth checking with HCD, since they do use 200 sq ft per person for the capacity calculation in AB 2339.
	Written management plan approved by the Zoning Administrator	Not one of the standards in AB 2339. This could pose an issue. It would be good to check with HCD on this.
	Adequate refuse collection	Not one of the standards in AB 2339. This could pose an issue. It would be good to check with HCD on this.



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### PLANNING COMMISSION STAFF REPORT

Thursday, October 26, 2023

**RE: Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)**

**SUMMARY:** The Planning Commission will consider recommending that the City Council adopt ZC 23-03, amending the City’s oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City’s tree removal permit requirements.

**RECOMMENDATION: Staff recommends the following actions:**

1. **Conduct a Public Hearing** on the proposed Zoning Code Amendment.
2. **Adopt** Resolution No. 2023-20 Recommending that the City Council adopt an ordinance amending Sections 17.12.060, 17.12.065, and 17.48.070 of the OMC

**APPLICANT:** City of Oroville

**LOCATION:** City-Wide

**GENERAL PLAN:** N/A

**ZONING:** N/A

**FLOOD ZONE:** N/A

**ENVIRONMENTAL DETERMINATION:** This proposed Zoning Code Amendment is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

<p><b>REPORT PREPARED BY:</b></p>     <hr/> <p>Connor Musler, Contract Planner Community Development Department</p>	<p><b>REVIEWED BY:</b></p>     <hr/> <p>Patrick Piatt, Director Community Development Department</p>
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**DISCUSSION**

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal. Section 17.12.060 pertains to tree preservation requirements, Section 17.12.065 pertains to oak tree loss mitigation requirements, and Section 17.48.070 pertains to the City’s tree removal permit requirements. Section 17.12.065 “Oak Tree Loss Mitigation” was added to the Oroville Municipal Code in 2015 as part of the larger “Oroville Sustainability Code Updates”; a collection of updates to bring the City’s zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 “Oak Tree Loss Mitigation,” contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

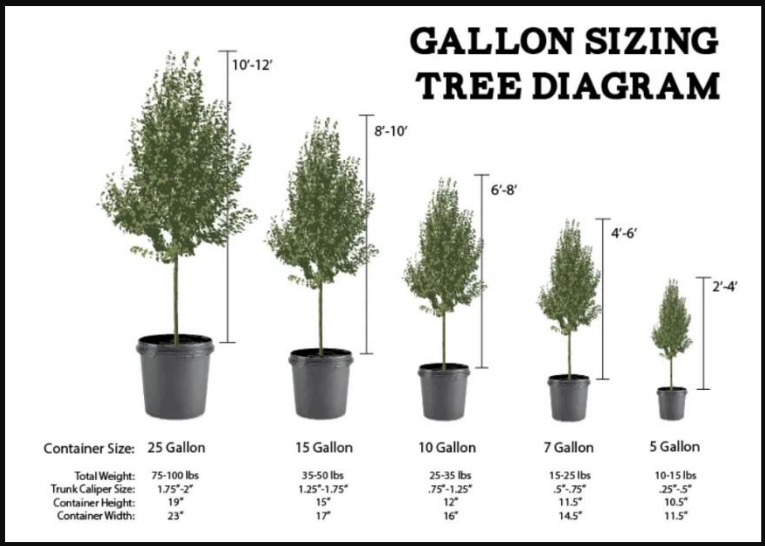
- Simplify the City’s oak tree mitigation requirements; and
- Ensure the City’s codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville’s beauty and natural environment.

Based on direction received from the City Council, staff began preparing an update to the City’s oak tree mitigation regulations to simplify the overall regulations found within Section 17.12.065 of the OMC. Staff researched the cities of Chico, Rocklin, Roseville, Folsom, Fremont, and the County of Butte to further analyze how each jurisdiction approached tree removal permits and mitigation requirements and compare how the City’s current regulations compared. Staff found that the City’s current regulations were similar to the jurisdictions researched, however, the City’s regulations had a more burdensome replacement ratio of 2 inches of oak tree for every 1 inch removed and a lack of clearly outlined exceptions to the mitigation requirements.

The following changes are proposed:

**Amend the Replacement Ratio**

Currently, oak trees must be replaced at a 2:1 ratio (2 inches of replacement oak tree for every 1 inch removed). Staff are proposing to simply the replacement standards to be a 1:1 ratio (1 inch of replacement oak tree for every 1 inch removed), with the replacement trees planted at a minimum size of 15 gallons.



**Expand the Scenarios where Mitigation is Exempt**

Currently, the only exception to the mitigation requirements of the oak tree ordinance is for “trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.”

Staff are proposing to expand the list of exceptions to the oak tree ordinance to include:

- Removal of an oak tree that is damaged and removal is necessary to protect persons and property from imminent damage.
- Removal by fire department personnel actively fighting fire.
- When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.
- Routing trimming and maintenance which do not damage or result in the death of the tree.
- Removal of a dead, dying, or tree in poor health, as determined by an arborist.

The Planning Commission held a workshop on the proposed oak tree mitigation ordinance update at their September 28, 2023, meeting. Staff are proposing two (2) additional mitigation exceptions and one (1) revised exception following that workshop.

The two (2) new proposed mitigation exceptions are:

- Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree; and
- When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.

The proposed revised exception is:

- Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - The developed lot is not greater than ~~40~~20,000 square feet in area and is zoned either [RR-20](#), RR-10, RL, R-1, or R-2.
  - The developed lot is located outside of the Foothill Overlay (F-O) district.
  - If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located ~~within the rear or side yard not~~ [outside of a setback area](#) abutting a street.

These three mitigation exceptions that resulted from the Planning Commission workshop were added with the intent of assisting property owners create defensible space around their homes and assist owners within the Wildland Urban Interface (WUI) maintain insurance coverage.

### **Mitigation Option – In-Lieu Fee**

One of the mitigation options allowed by the oak tree ordinance is the payment of an in-lieu fee. The City does not currently have an in-lieu fee established within the City's fee schedule. Based on correspondence from the City's arborist/parks, streets and trees supervisor, staff are proposing an in-lieu fee set at \$220 per inch that needs to be mitigated. This is broken down as \$55-\$60 for a 15-gallon tree, with an average of 2 crew hours (\$75 an hour per crew member) spent to plant the tree, stake it, etc. plus \$10 for miscellaneous expenses such as tree stakes.

Additional changes are proposed to OMC Sections 17.12.060 (Tree Preservation) and 17.48.070 (Tree Removal Permits). Staff are proposing to combine Section 17.12.060 and Section 17.48.070 to minimize cross referencing for two code sections that work in close coordination with each other. Minor updates are also proposed to ensure proper cross-reference between the oak tree mitigation requirements and the tree removal permit section and updates to the department director positions referenced within the code sections.

This proposed ordinance helps implement guiding principles, goals, policies and actions of the City's 2030 General Plan.

### **General Plan Guiding Principles:**

**Livability.** Ensure that future development enhances the existing character of our city as

a whole, as well as its individual neighborhoods, and has a positive effect on our surroundings and quality of life.

**Natural Resources and the Environment.** Highlight and protect our unique open spaces, natural resources, underdeveloped areas, specimen trees, riparian zones and wetlands.

**General Plan Goals:**

Goal CD-1 As the community grows, maintain a coherent and distinctive physical form and structure that reflects Oroville’s unique qualities.

Goal CD-7 Develop Oroville’s major corridors as attractive locations with a diverse mix of land uses and development patterns that include high quality pedestrian-oriented design.

Goal OPS-1 Provide a comprehensive, high-quality system of recreational open space and facilities to maintain and improve the quality of life for Oroville residents.

Goal OPS-5 Maintain and enhance the quality of Oroville’s scenic and visual resources.

Goal OPS-9 Protect areas of significant wildlife habitat and sensitive biological resources to maintain biodiversity among plant and animal species in the City of Oroville and the surrounding area.

**General Plan Policies:**

P1.1 Require quality architectural and landscaping design as well as durable and efficient materials for all projects.

P2.3 Encourage imaginative design concepts in woodland areas to perpetuate and preserve native trees.

P2.4 Use appropriate landscaping to reduce the effects of surface runoff in developing areas, with an emphasis on native and drought-resistant species, minimization of impervious surfaces, and provisions for recharge.

P2.5 Continue to support and maintain Oroville’s involvement and commitment to the Tree City USA® program.

P2.6 Encourage the planting of trees and other landscape features along Oroville’s corridors to make them interesting, appealing, and inviting.

P1.1 Preserve and develop open space that includes a diversity of passive and active recreational amenities, that is geographically distributed throughout the City, and that is easily accessible by pedestrians and bicyclists.

P3.5 Enhance the wildlife value of the Planning Area’s “urban forest” by landscaping park

and recreation lands with native vegetation and by preserving existing trees and shrubs where they offer significant wildlife value.

P9.5 Require the preparation of a site-specific tree management and preservation report by a certified arborist or urban forester for development proposals on sites that contain significant oak woodlands and related habitat. This report shall include recommendations for the retention of healthy mature trees wherever feasible and promote the concept of oak regeneration corridors within project design.

### **FISCAL IMPACT**

There is minimal fiscal impact associated with the recommended actions.

### **ATTACHMENTS**

- A. Resolution No. 2023-20
- B. Proposed Changes to OMC Section 17.12.060 (Tree Preservation)
- C. Proposed Changed to OMC Section 17.12.065 (Oak Tree Loss Mitigation)
- D. Proposed Changes to OMC Section 17.48.070 (Tree Removal Permits)

**RESOLUTION NO. P2023-20**

**A RESOLUTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ZONING CODE AMENDMENT (ZC 23-03), THE PROPOSED AMENDMENTS TO THE OROVILLE MUNICIPAL CODE SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”**

**WHEREAS**, the Oroville 2030 General Plan sets forth goals, objectives, and policies to protect, manage, and expand urban forestry and native vegetation while also considering public safety; and

**WHEREAS**, the City of Oroville currently requires tree removal permits to protect the City’s mature trees; and

**WHEREAS**, a tree removal permit must be obtained prior to the removal of a protected tree, including native oak trees; and

**WHEREAS**, OMC Section 17.12.065 establishes regulations to protect native oak trees and outlines requirements for mitigation when removed; and

**WHEREAS**, City Staff identified challenges in implementing the current oak tree mitigation code as written and received direction from the City Council to identify opportunities to address those challenges; and

**WHEREAS**, the proposed amendments to OMC Section 17.12.065 include expanding the exceptions to the permit and mitigation requirements and simplifying the mitigation replacement ratio; and

**WHEREAS**, amendments are also proposed to Sections 17.12.060 and 17.48.070; and

**WHEREAS**, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

**NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION AS FOLLOWS:**

SECTION 1. The Planning Commission determines:

- A. That the proposed amendments are consistent with the General Plan; and
- B. The proposed amendments are consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed.



SECTION 2. The Planning Commission finds that Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. The Planning Commission hereby recommends that the City Council adopt an ordinance amending the Oroville Municipal Code as set forth in Attachment B amending Section 17.12.060 (Tree Preservation), Attachment C amending Section 17.12.065 (Oak Tree Loss Mitigation), and Attachment D amending Section 17.48.070 (Tree Removal Permits).

SECTION 4. Furthermore, the Planning Commission hereby recommends that the City Council adopt an in-lieu fee of \$220 per inch of oak tree requiring mitigation.

\*\*\*\*\*

**PASSED AND ADOPTED** by the Planning Commission of the City of Oroville at a regular meeting on October 26, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

\_\_\_\_\_  
Kayla Reaster, Assistant City Clerk

\_\_\_\_\_  
Carl Durling, Chairperson

**SECTION 17-12.060****TREE PRESERVATION**~~17-12.060 — Tree Preservation~~~~A. — Applicability.~~

- ~~1. — The requirements of this section shall apply to any protected tree.~~
- ~~2. — A protected tree is defined as:
  - ~~a. — Any tree on public property; or~~
  - ~~b. — Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.~~~~
- ~~3. — **Permit Required.** The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.~~
- ~~4.1. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4)~~

DRAFT

**SECTION 17-12.065****OAK TREE LOSS MITIGATION**

## 17-12.065 Oak Tree Loss Mitigation

A. **Purpose.**

Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. **Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, ~~interior live oak~~, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. **Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
  - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
  - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
  - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
  - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.

- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
  - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
  - b. The off-site location is appropriate for oak tree plantings, as determined by the director of ~~par~~ks and trees-public works or designee.
  - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

~~E.—~~**Exceptions to Permits and Mitigation Requirements.** ~~Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee. A tree removal permit or mitigation shall not be required for the following circumstances:~~

- ~~1. When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.~~
- ~~2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.~~
- ~~3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.~~
- ~~4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.~~
- ~~5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.~~

6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
7. Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - a. The developed lot is not greater than 4020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
  - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
    - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard not outside of a setback area abutting a street.

F.

G.E. Replacement Standards. Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 2.1 inches of native oaks (1:1 ratio), using trees planted at a minimum size of one-15 gallons. ~~For example, a 6-inch dbh tree may be replaced by four 1.3-inch trees or 2.12 three-one-inch trees.~~
2. **Timeframe.** ~~A replacement tree shall be planted within 90 days of the removal of the original tree. The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).~~
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

H.F. Oak Tree Maintenance Fund. The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

I.G. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:

1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.

J.H. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

**SECTION 17-48.070****TREE REMOVAL PERMITS**

## 17-48.070 Tree Removal Permits

A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.

B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.

1. A protected tree is defined as:

a. Any tree on public property; or

b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.

A.c. An oak tree meeting the criteria of Section 17.12.065.

B.C. **Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
  - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of parks and trees public works or designee shall be responsible for issuing tree removal permits.
  - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
  - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

C.D. **Required Findings.**

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
  - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.

- b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
- c. To pursue good, professional practices of forestry or landscape design.

2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

2.E. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).





# City of Oroville

## COMMUNITY DEVELOPMENT DEPARTMENT

---

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### MEMORANDUM

**TO: Chairman Durling and Members of the Planning Commission**

**FROM: Mark Wolfe, AICP, Principal Planner**

**SUBJECT: Continuation of Hearing for Draft Food Truck Court Ordinance**

**DATE: October 19, 2023**

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Staff is continuing to work with involved parties on this item, and is making refinements to a Draft Ordinance for the Commission's consideration.

Staff recommends that the Planning Commission open the noticed Public Hearing for this agenda item, then continue the matter to its November 16, 2023 meeting.



# City of Oroville

Community Development Director

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
 Oroville, CA 95965-4897  
 (530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### PLANNING COMMISSION STAFF REPORT

Thursday, October 26, 2023

**RE: Ruddy Creek Subdivision Tentative Map Extension #1**

**SUMMARY:** The Oroville Planning Commission may consider extending approval of the existing Tentative Subdivision Map for Ruddy Creek to December 17, 2025.

**RECOMMENDATION: Staff recommends the following actions:**

1. Conduct a Public Hearing to consider extending the approved Ruddy Creek Subdivision Map.
2. Approve the Map extension until December 17, 2025.
3. Adopt Resolution No. P2023-24 extending the deadline for filing a Final Subdivision Map for TSM 20-01 for two years until December 17, 2025, with the condition that approval of the Final Map shall remain subject to all conditions of approval identified in the Letter of Approval dated February 2, 2021.

**APPLICANTS:** Ruddy Creek Partnership

**LOCATION:** SE Corner of Feather Avenue and 18<sup>th</sup> Streets in unincorporated territory. (APN 030-360-091, 030-360-092)

**GENERAL PLAN:** MLDR (Medium Low Density Residential)

**ZONING:** R-1 (Single Family Residential)

**FLOOD ZONE:** Zone X and AE

**ENVIRONMENTAL DETERMINATION:** A Mitigated Negative Declaration has been adopted for this project.

**REPORT PREPARED BY:**

\_\_\_\_\_  
 Brandon Mata, Assistant Planner  
 Community Development Department

**REVIEWED BY:**

\_\_\_\_\_  
 Patrick Piatt, Assistant Director  
 Community Development Director

## DISCUSSION

The Village at Ruddy Creek project is a 97-lot single family residential development on 25.3 acres, southeast of Feather Avenue and 18<sup>th</sup> street, in the Thermalito neighborhood.

On December 15, 2020, the Council adopted a mitigated negative declaration, approved the project's tentative subdivision map, a General Plan amendment, and initiated annexation of the site.

The Tentative Subdivision Map will expire on December 16, 2023 unless either a final map is submitted, or an extension is approved. Tentative Maps may be extended for up to two years under Oroville's Municipal Code. Staff is recommending a two-year extension. State law would permit one additional extension of up to one year.

The City has received one letter expressing concern with the project and its related environmental review (**Attachment 3**). The matter before the Commission, however, is not the merit of the project, per se, and staff recommends that the adopted Mitigated Negative Declaration remains valid and appropriate for the project. All previously adopted mitigation measures for the project will remain in effect. Staff has identified no major issues with this request, and is recommending a two-year extension of the map's approval.

## FISCAL IMPACT

None. The project is subject to all customary fees.

## ATTACHMENTS

1. Site Location
2. Map of Ruddy Creek, Master Plans, and 2021 Letter of Approval
3. Letter from California Wildlife Foundation
4. February 2, 2021 Letter of Approval with Conditions
5. Resolution No. P2023-24

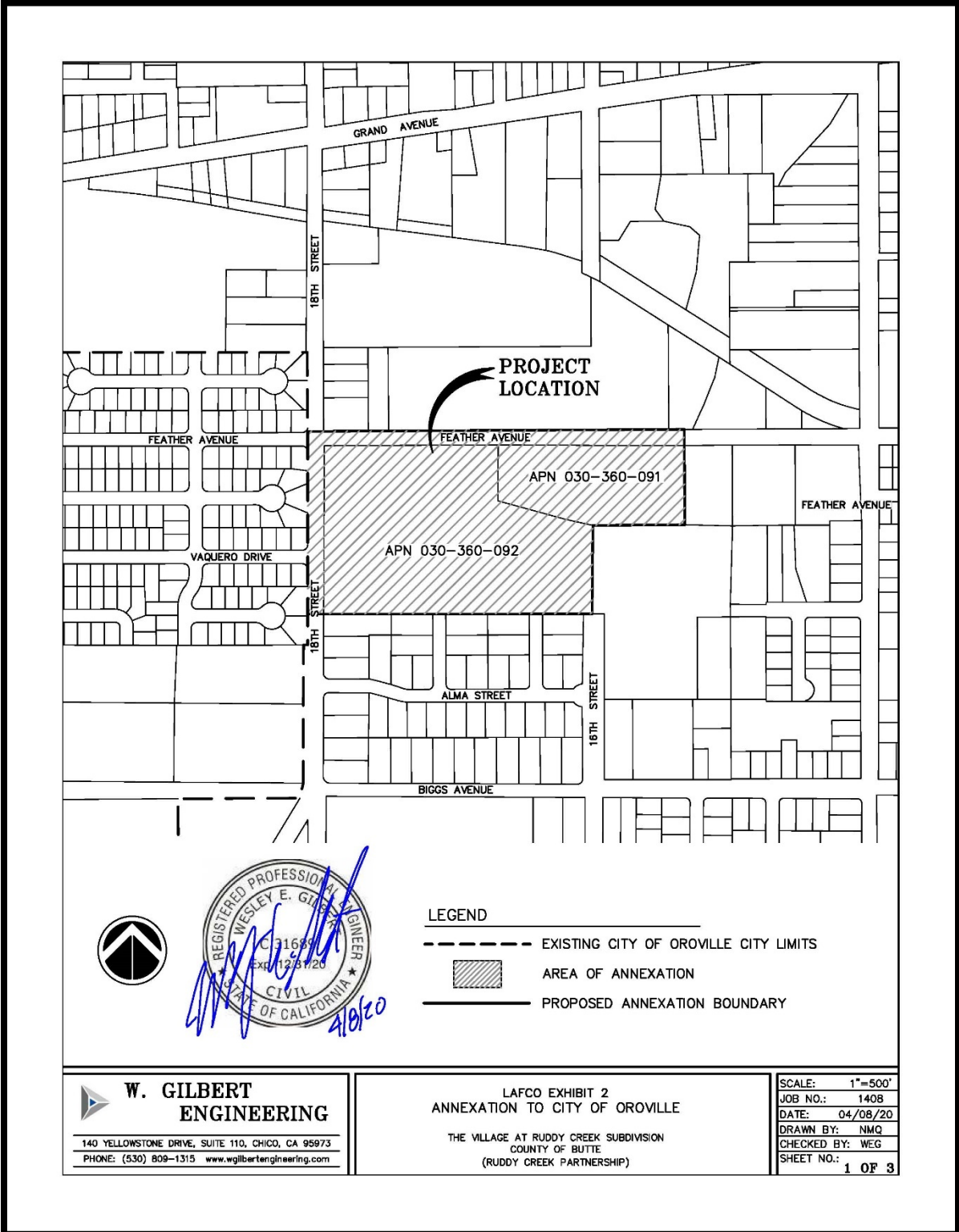
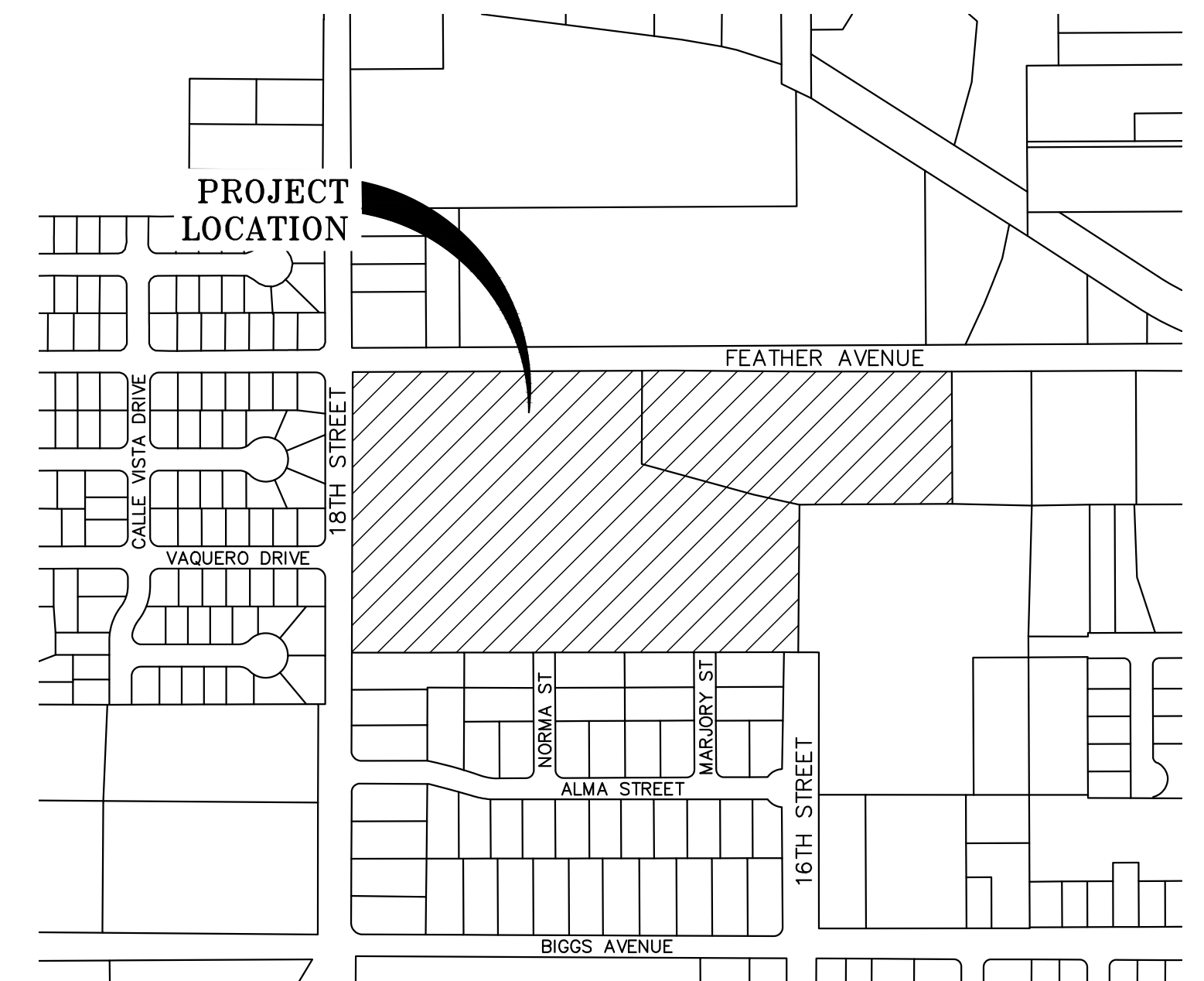
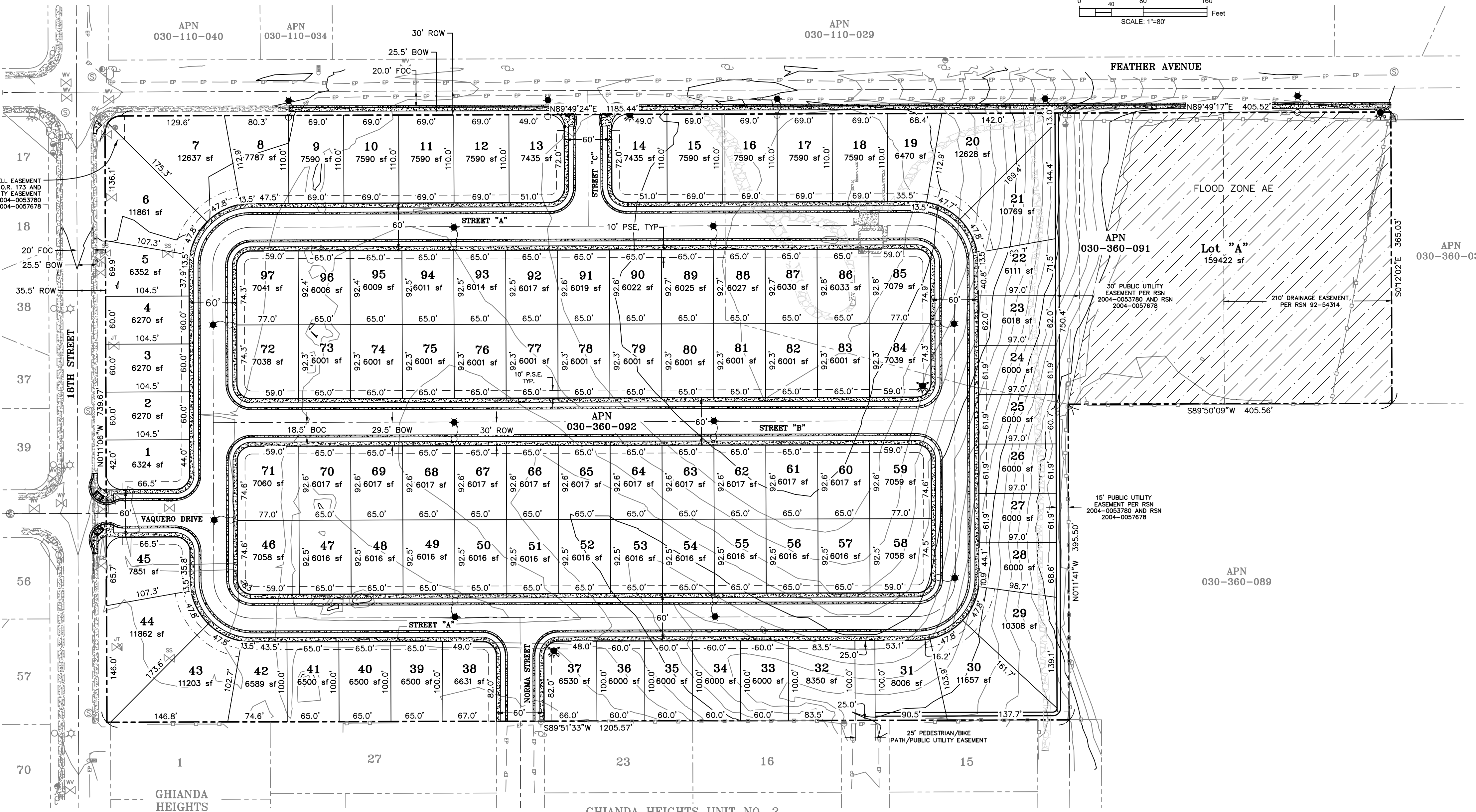


Figure 3 – Annexation Exhibit Map

LEGEND:

- 196— EXISTING GROUND CONTOUR (BUTTE COUNTY DATUM)
- SUBDIVISION BOUNDARY
- - - PROPOSED LOT LINE
- CENTER LINE
- - - EASEMENT
- - - PROPOSED BUILDING SETBACK LINE
- - - EXISTING CURB, GUTTER AND SIDEWALK
- ⊙-S- EXISTING SANITARY SEWER MANHOLE AND SEWER LINE
- == PROPOSED CURB AND GUTTER
- == PROPOSED CONCRETE AREA
- EXISTING AND FINISH GRADE
- EXISTING STORM DRAIN DROP INLET
- EG EXISTING GROUND ELEVATION
- FG FINISH GRADE ELEVATION
- PUE PUBLIC UTILITY EASEMENT
- PSE PUBLIC SERVICE EASEMENT
- ROW RIGHT OF WAY
- BOC BACK OF CURB
- BOW BACK OF WALK
- ⊗ EXISTING TREE
- ⊗ EXISTING TREE TO BE REMOVED
- BSL BUILDING SETBACK LINE
- EXISTING FENCE
- ⊗ EXISTING FIRE HYDRANT
- ⊗ PROPOSED FIRE HYDRANT
- ⊗ EXISTING WATER VALVE
- ⊗ EXISTING HOSE BIB
- ⊗ EXISTING BUILDING TO REMAIN
- ⊗ EXISTING GRAVEL DRIVEWAY
- ⊗ EXISTING STREET LIGHT
- ⊗ PROPOSED STREET LIGHT
- ⊗ FLOOD ZONE AE
- ⊗ EXISTING UTILITY POLE
- ⊗ EXISTING GUY WIRE
- ⊗ EXISTING TRAFFIC SIGN
- ⊗ EXISTING MAILBOX
- ⊗ EXISTING STORM DRAIN MANHOLE
- ⊗ EXISTING ABANDONED WELL



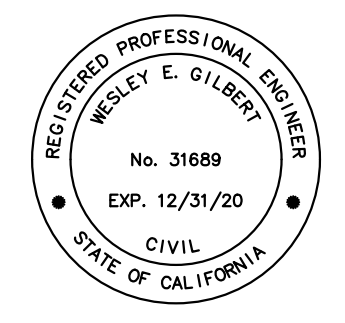
LOCATION MAP NTS

SUBDIVISION NOTES:

- 1) PARCEL MAP INFORMATION:  
TOTAL ACREAGE (TO CL): 26.185  
NET ACREAGE: 23.958  
TOTAL NUMBER OF LOTS: 97  
UNITS PER GROSS ACRE: 3.70  
AVERAGE LOT SIZE: 6,880 SF
- 2) GRADING WILL CONSIST OF THE CONSTRUCTION OF ROADWAYS AND BUILDINGS PADS. PRELIMINARY FINISH GRADES AND TYPICAL SECTIONS ARE SHOWN ON SHEET 2.
- 3) THE FINAL MAP WILL INCLUDE A 10' WIDE P.S.E. ALONG ALL LOT FRONTAGES AND AS SHOWN HEREON.
- 4) LOT "A" LIES IN FLOOD ZONE "AE" AND THE REMAINDER OF THE SUBDIVISION LIES IN FLOOD ZONE "X" AS SHOWN ON FIRM MAP NUMBER 06007C0788E DATED JANUARY 6, 2011.
- 5) STORM WATER QUANTITY AND QUALITY WILL BE PROVIDED BY DETENTION FACILITIES WITHIN LOT "A"

THIS TENTATIVE SUBDIVISION MAP WAS PREPARED BY ME OR UNDER MY DIRECTION.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 WESLEY E. GILBERT  
 R.C.E. 31689  
 EXPIRES: 12/31/20



**THE VILLAGE AT RUDDY CREEK**  
**TENTATIVE SUBDIVISION MAP**  
**S ---**  
**(A PUBLIC STREET SUBDIVISION)**

FOR  
 RUDDY CREEK PARTNERSHIP  
 BEING A DIVISION OF PARCELS 1 AND 2 AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED IN BOOK 82 OF MAPS, AT PAGE 13 CITY OF CHICO, COUNTY OF BUTTE STATE OF CALIFORNIA

W. GILBERT ENGINEERING  
 140 YELLOWSTONE DRIVE, SUITE 110  
 CHICO, CALIFORNIA 95973  
 (530) 809-1315

**OWNER/SUBDIVIDER:**  
 RUDDY CREEK PARTNERSHIP  
 4575 6TH AVENUE  
 CORNING, CA 96021

**ASSESSOR'S PARCEL NUMBER:**  
 030-360-091 & 092

**ZONING:**  
 PRESENT: APN 030-360-090: MDR (BUTTE COUNTY)  
 APN 030-360-092: RR-5 (BUTTE COUNTY)  
 FUTURE: R-1 (CITY OF OROVILLE)

**RECORD REFERENCES:**  
 (R1) - "GHIANDA HEIGHTS, UNIT NO. 1" BOOK 27 OF MAPS, PAGES 25 & 26  
 (R2) - "GHIANDA HEIGHTS, UNIT NO. 2" BOOK 30 OF MAPS, PAGES 33 & 34  
 (R3) - "CALLE VISTA ESTATES, UNIT NO. 1" BOOK 126 OF MAPS, PAGES 82-85

**ENGINEER:**  
 W. GILBERT ENGINEERING  
 WESLEY E. GILBERT, R.C.E. 31689  
 140 YELLOWSTONE DRIVE, SUITE 110  
 CHICO, CALIFORNIA 95973  
 (530) 809-1315

**LAND USE:**  
 PRESENT: VACANT  
 FUTURE: SINGLE FAMILY RESIDENTIAL

**UTILITIES:**  
 SANITARY SEWER: THERMALITO WATER AND SEWER DISTRICT  
 WATER: THERMALITO WATER AND SEWER DISTRICT  
 POWER: PACIFIC GAS & ELECTRIC  
 COMMUNICATIONS: AT&T  
 CABLE TV: COMCAST  
 STORM DRAIN: CITY OF OROVILLE



# City of Oroville

*Leonardo DePaola*

COMMUNITY DEVELOPMENT DEPARTMENT

DIRECTOR

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426 [www.cityoforoville.org](http://www.cityoforoville.org)

February 2, 2021

## LETTER OF APPROVAL

**RE: The Village at Ruddy Creek Subdivision**

Dear Mr. Laflamme,

On January 16, 2021, the Oroville City Council completed its last necessary action to approve the Village at Ruddy Creek Subdivision, subject to approval by the Butte County Local Agency Formation Commission of the proposed annexation.

## CONDITIONS OF APPROVAL

**Approved project:** The project applicant, Ruddy Creek Partnership, has submitted an application for a new subdivision of 97 single-family units on a 23.97-acre vacant property consisting of two parcels (APN 030-360-091 and -092) that fronts on Feather Avenue to the north and 18<sup>th</sup> Street to the west. The homes will be developed on approximately 20.4 acres with 3.6 acres reserved for a neighborhood park. The approvals included:

- Tentative Subdivision Map TSM 20-01
- General Plan Amendment GPA 20-01, which changed the Land Use Designation to Medium Low Density Residential.
- Zoning Change ZC 20-02, which changed the Pre-Zoning to R-1, which will become effective upon annexation; and
- An annexation of the properties and a portion of adjacent 18<sup>th</sup> Avenue into the City Limits.

**This letter confirms Oroville City Council approval of the project, subject to an approved annexation and the terms and conditions below:**

### **TSM 20-01 and Engineer's Report**

The Tentative Subdivision Map of November 9, 2020 has been approved subject to the conditions in the accompanying Engineer's Report dated November 23, 2020 (Attachment 1).

### **Staff Report dated December 15, 2020**

The following conditions apply:

1. The applicant shall provide a parkland dedication of 3.65-acre residual Lot A to the Feather River Recreation and Park District (FRRPD). Prior to the dedication, and before the 26<sup>th</sup> home is built, applicant will develop a meandering trail/path on the lot that is satisfactory to FRRPD and that is accessible to the public.  
  
FRRPD will establish a new Community Facilities assessment district to fund the cost of maintenance and servicing, including repairs and replacement, of the trail. The subdivision property owners will pay the assessment.
2. Applicant shall assist as needed the process of annexation of the subdivision into Community Facilities Districts CFO2006-1 and CFO2006-2.
3. Applicant shall plant 270 inches of oak trees on site, including 35 two-inch diameter trees along Feather Avenue and 18<sup>th</sup> Streets, 30 two-inch trees along internal streets in the subdivision, and up to 70 two-inch trees on residual Lot A. Plantings shall be subject to the approval of the Director of Parks and Trees. If plantings are not feasible, applicant shall pay an in-lieu fee of \$27,000.
4. Fencing around the perimeter of the subdivision shall be wood at a minimum of 6-feet high.
5. Homes along the southern boundary of the subdivision (Lots #30-43) shall be one-story construction.
6. A deed notice is required to be included in any parcel transfer document, which puts the buyer on notice that the house is within the airport area of influence and may therefore encounter discomfort, inconvenience or annoyance from the noise generated by operations at the airport.
7. Each lot shall be developed with a detached single-family residence designed in accordance with the City's residential development, parking, and design standards in OMC 17.28.020, 17.12.070, and the City of Oroville Design Guidelines of 2015. Additional requirements are in Ordinance 1851.
8. All site, building and landscaping plans shall be submitted to the Development Review Committee for review and approval prior to building plan submittal, and shall comply with the conditions in the ordinance approving Zoning Code ZC 20-02.

### **Ordinance #1851**

Applicant and any succeeding owners shall comply with Section 2 of the Ordinance pertaining to home design, colors, garages, floor plans, and other features (Attachment 2).

### **Environmental Mitigation Monitoring Program**

Applicant shall comply with the air quality, species survey, construction staging and other requirements of the adopted Mitigation Monitoring Matrix (Attachment 3).

### **Annexation**

Applicant shall comply with any conditions imposed by LAFco during the annexation process.

### **Additional General Conditions**

1. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.
2. The project shall remain in substantial conformance with the Conditions of Approval, as adopted and described above. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission or City Council, whichever is applicable.
3. The applicants shall have a current City of Oroville business license and any other applicable permit/license that may be required as part of their business operations.
4. Applicable construction plans, calculations, specifications, applications, forms, etc. shall be submitted to the Building Division for review prior to the start of any construction activities requiring a building permit. All applicable plan review and impact fees shall be paid at time of submittal.
5. All applicable development impact fees shall be paid prior to issuance of a building permit.
6. The applicant shall ascertain and comply with the requirements of all City, County, State, Federal, and other local agencies as applicable to the proposed project.
7. All grading, paving, excavation and site clearance, including that which is exempt from obtaining a permit, shall be performed in conformance with the City's Engineering Design Standards; the Municipal Code; the requirements of the State Regional Water Quality Control Board; and any other applicable local, state and federal requirements.
8. The project shall comply with the City's noise ordinance as found in the OMC Chapter 9.20.
9. All construction projects are required to implement dust control measures to reduce particulate matter emissions due to disturbance of exposed top-soils, such as watering of active areas where disturbance occurs, covering haul loads, maintaining clean access roads, and cleaning the wheels of construction vehicles accessing disturbed areas of the site. See the Mitigation Monitoring Matrix for specific mitigation requirements.



10. All grading and paving shall be conducted in compliance with the Butte County Air Quality Management District's Indirect Source Guidelines, in order to prevent degradation of ambient air quality. See the Mitigation Monitoring Matrix for specific mitigation requirements.
11. Applicant hereby certifies that any and all statements and information provided as part of the application are true and correct to the best of their knowledge and belief. Any misinformation provided, whether intentional or unintentional, that was considered in the issuance of this permit may be grounds for revocation.

**--- End of Conditions ---**

If you have questions about the information in this letter, please contact me by e-mail at [wervin@cityoforoville.org](mailto:wervin@cityoforoville.org) or by phone at (530) 538-2408.

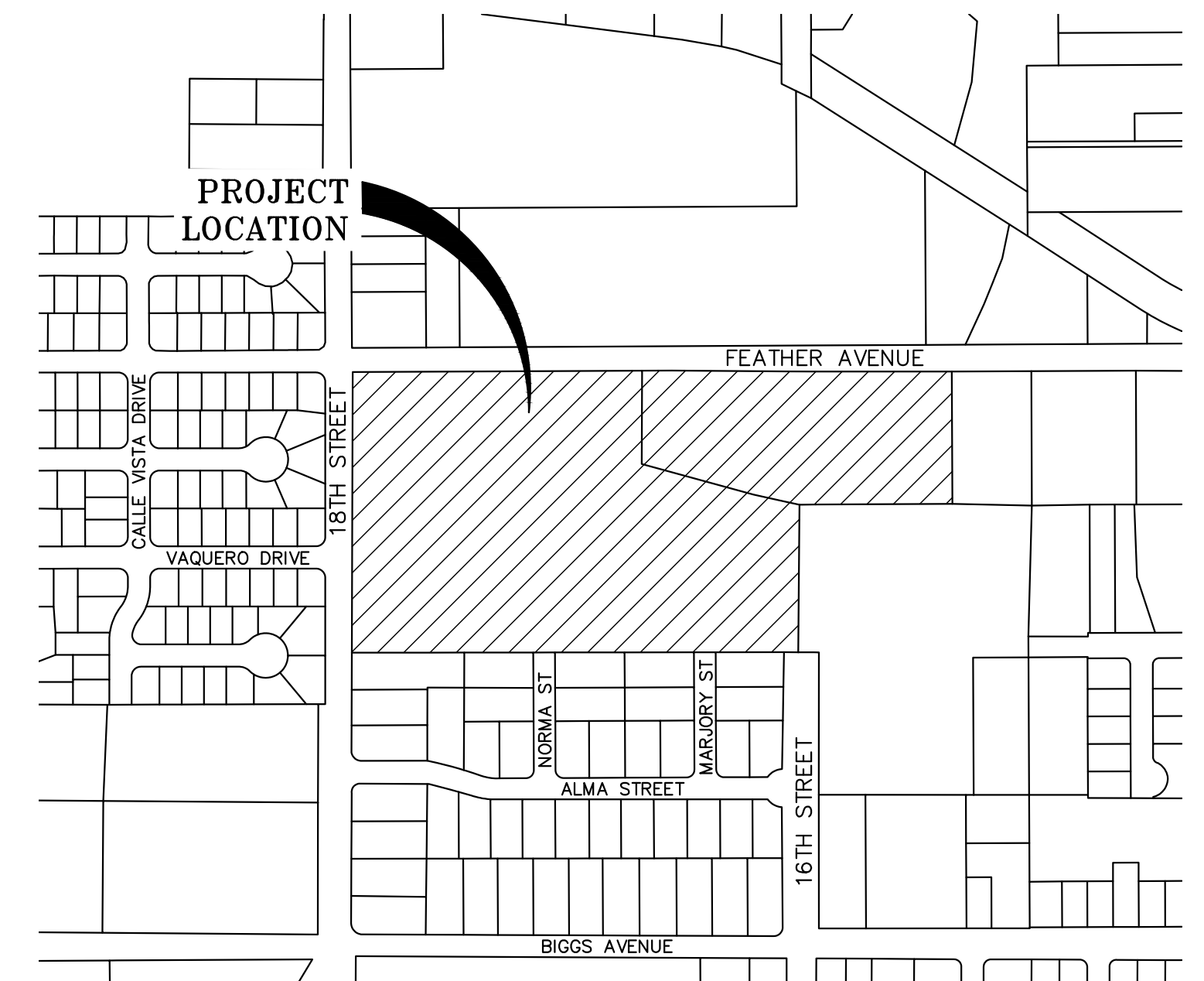
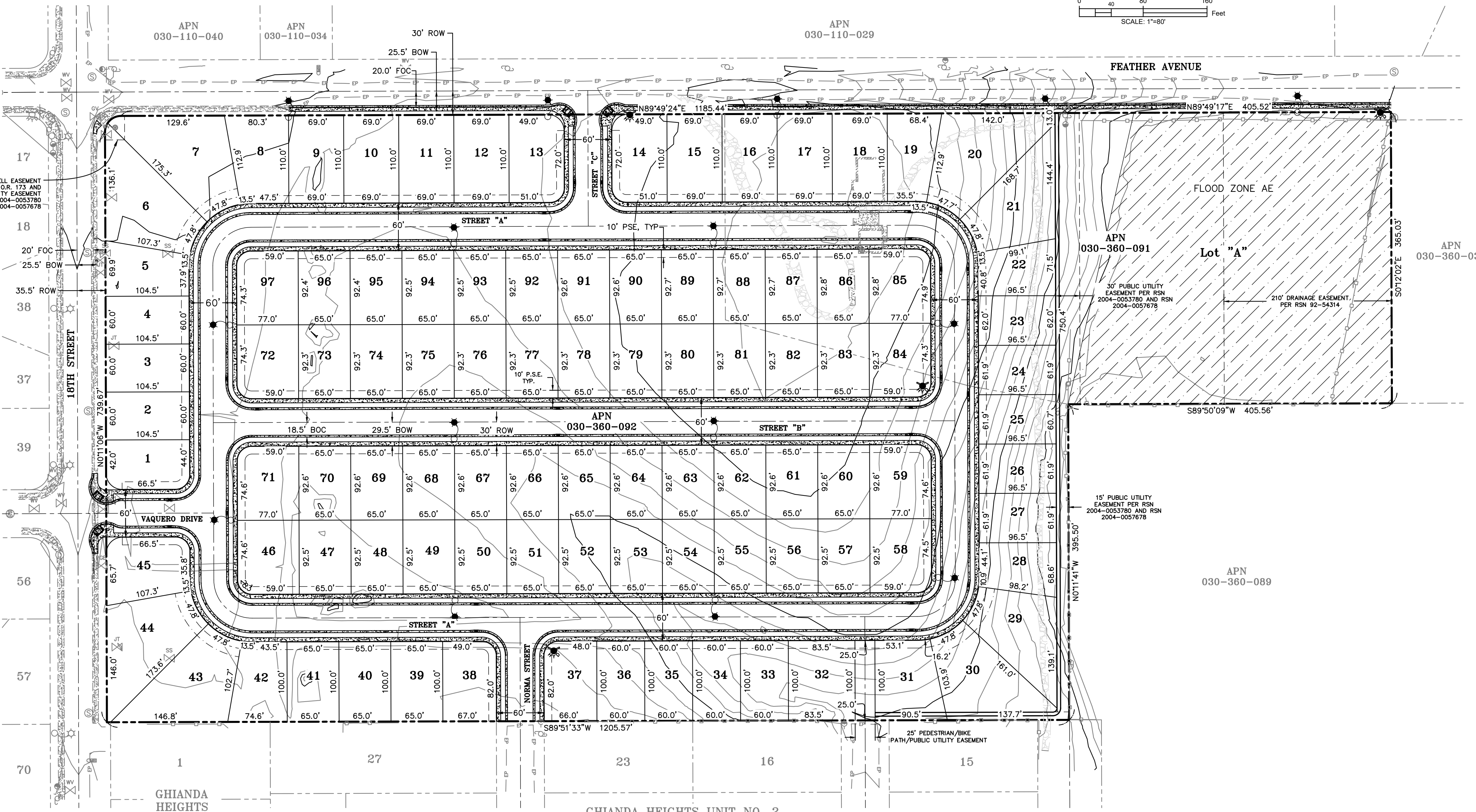
Sincerely,



Wes Ervin  
Planner

LEGEND:

—196—	EXISTING GROUND CONTOUR (BUTTE COUNTY DATUM)	EG	EXISTING GROUND ELEVATION	—○—	EXISTING UTILITY POLE
— — —	SUBDIVISION BOUNDARY	FG	FINISH GRADE ELEVATION	—○—	EXISTING GUY WIRE
— — —	PROPOSED LOT LINE	PUE	PUBLIC UTILITY EASEMENT	—○—	EXISTING TRAFFIC SIGN
— — —	CENTER LINE	PSE	PUBLIC SERVICE EASEMENT	—○—	EXISTING MAILBOX
— — —	EASEMENT	ROW	RIGHT OF WAY	—○—	EXISTING STORM DRAIN MANHOLE
— — —	PROPOSED BUILDING SETBACK LINE	BOC	BACK OF CURB	—○—	EXISTING ABANDONED WELL
— — —	EXISTING CURB, GUTTER AND SIDEWALK	BOW	BACK OF WALK		
—○—	EXISTING SANITARY SEWER MANHOLE AND SEWER LINE	—X—	EXISTING TREE		
— — —	PROPOSED CURB AND GUTTER	—X—	EXISTING TREE TO BE REMOVED		
— — —	PROPOSED CONCRETE AREA	BSL	BUILDING SETBACK LINE		
— — —	EXISTING AND FINISH GRADE				
— — —	EXISTING STORM DRAIN DROP INLET				



LOCATION MAP NTS

SUBDIVISION NOTES:

- 1) PARCEL MAP INFORMATION:  
TOTAL ACREAGE (TO CL): 26.185  
NET ACREAGE: 23.958  
TOTAL NUMBER OF LOTS: 97  
UNITS PER GROSS ACRE: 3.70  
AVERAGE LOT SIZE: 6,880 SF
- 2) GRADING WILL CONSIST OF THE CONSTRUCTION OF ROADWAYS AND BUILDINGS PADS. PRELIMINARY FINISH GRADES AND TYPICAL SECTIONS ARE SHOWN ON SHEET 2.
- 3) THE FINAL MAP WILL INCLUDE A 10' WIDE P.S.E. ALONG ALL LOT FRONTAGES AND AS SHOWN HEREON.
- 4) LOT "A" LIES IN FLOOD ZONE "AE" AND THE REMAINDER OF THE SUBDIVISION LIES IN FLOOD ZONE "X" AS SHOWN ON FIRM MAP NUMBER 06007C0788E DATED JANUARY 6, 2011.
- 5) STORM WATER RUNOFF FROM THE SITE WILL DRAIN INTO RUDDY CREEK USING PIPE SIZES TO RESTRICT THE FLOWS SO THAT THEY DO NOT EXCEED THE PEAK FLOWS FROM THE SITE PRIOR TO DEVELOPMENT AFTER BEING DETAINED IN OVERSIZED STORM DRAIN PIPES LOCATED UNDER THE CURB, GUTTER AND SIDEWALK IN THE SUBDIVISION STREETS.

THIS TENTATIVE SUBDIVISION MAP WAS PREPARED BY ME OR UNDER MY DIRECTION.  
 BY: *Wesley E. Gilbert* DATE: 11/9/20  
 WESLEY E. GILBERT  
 R.C.E. 31689  
 EXPIRES: 12/31/20



THE VILLAGE AT RUDDY CREEK  
 TENTATIVE SUBDIVISION MAP  
 S ---  
 (A PUBLIC STREET SUBDIVISION)

FOR  
 RUDDY CREEK PARTNERSHIP  
 BEING A DIVISION OF PARCELS 1 AND 2 AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED IN BOOK 82 OF MAPS, AT PAGE 13 CITY OF CHICO, COUNTY OF BUTTE STATE OF CALIFORNIA

W. GILBERT ENGINEERING  
 140 YELLOWSTONE DRIVE, SUITE 110  
 CHICO, CALIFORNIA 95973  
 (530) 809-1315

OWNER/SUBDIVIDER:  
 RUDDY CREEK PARTNERSHIP  
 4575 6TH AVENUE  
 CORNING, CA 96021

ASSESSOR'S PARCEL NUMBER:  
 030-360-091 & 092

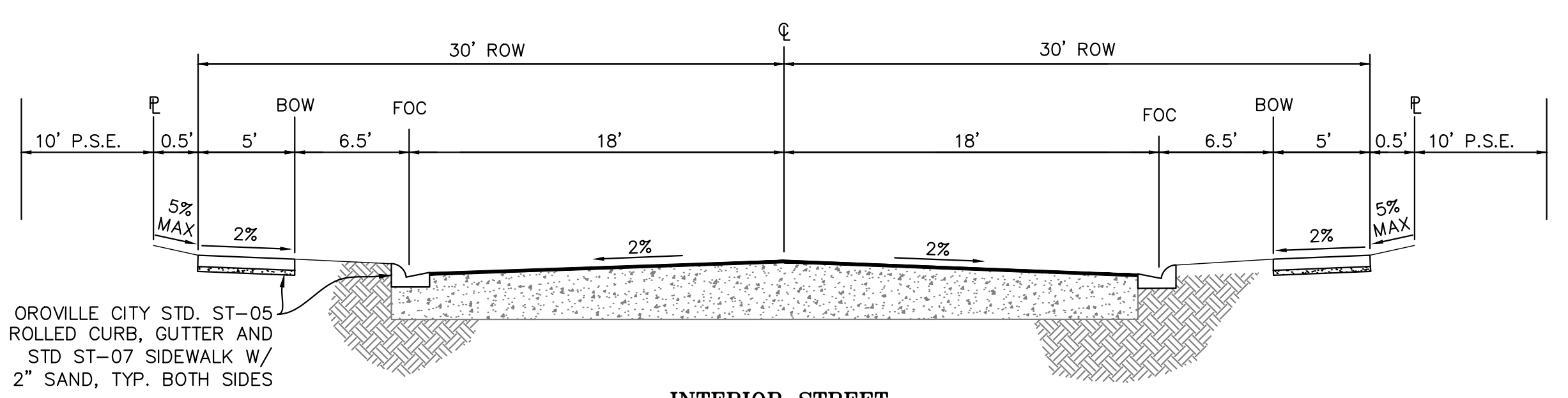
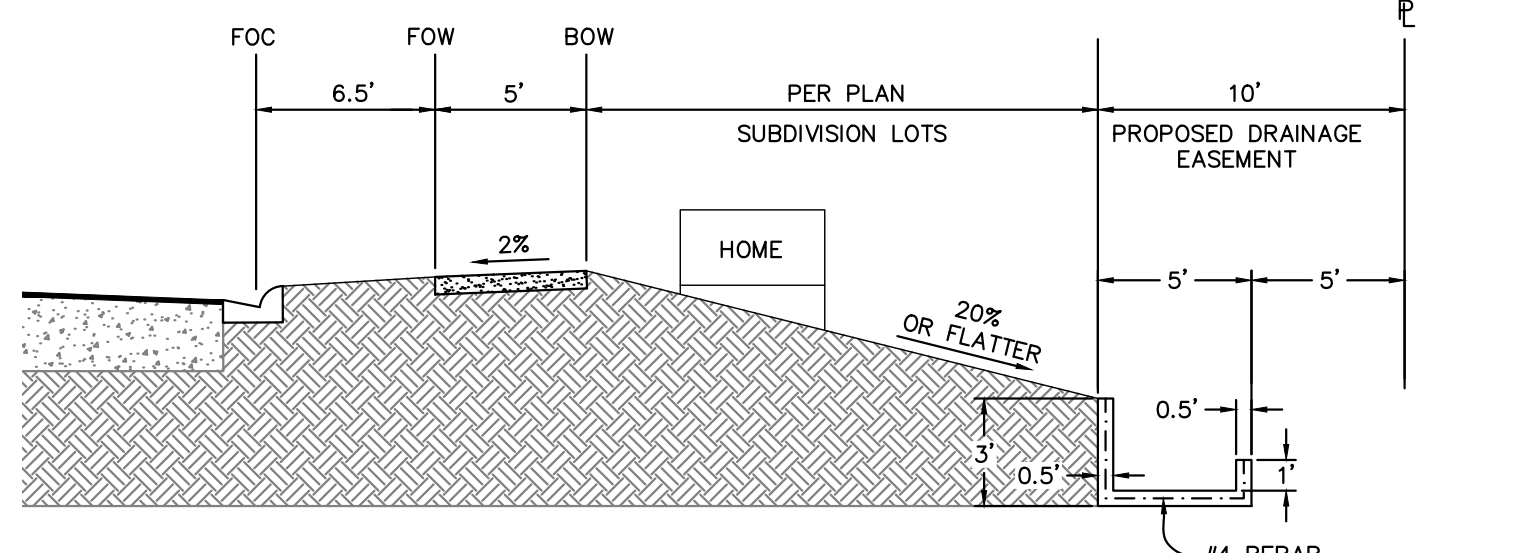
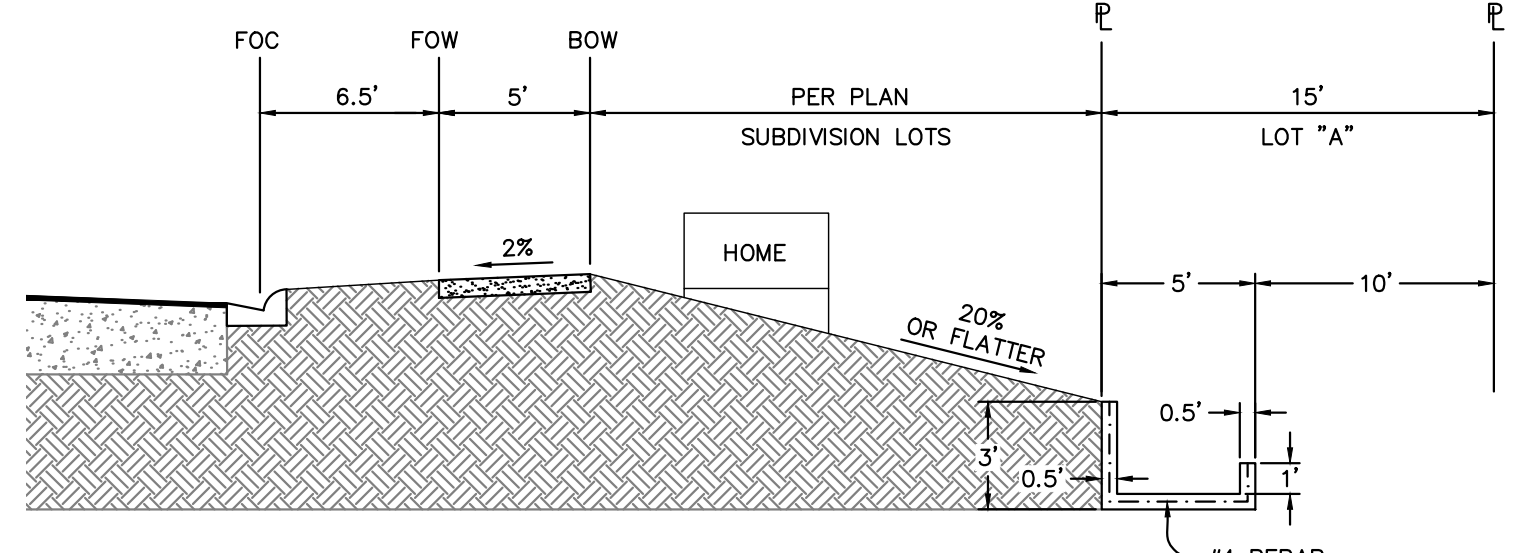
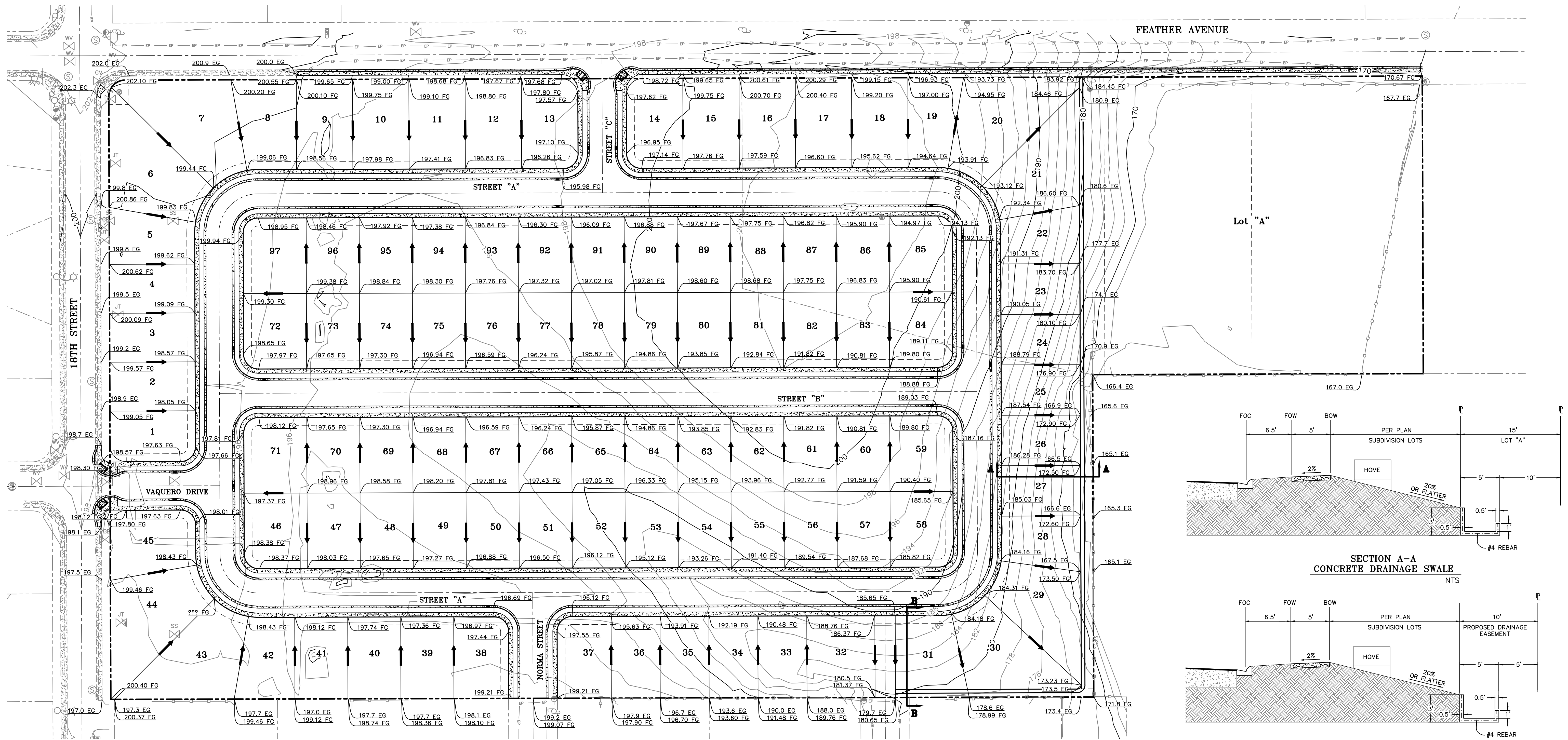
ZONING:  
 PRESENT: APN 030-360-090: MDR (BUTTE COUNTY)  
 APN 030-360-092: RR-5 (BUTTE COUNTY)  
 FUTURE: R-1 (CITY OF OROVILLE)

RECORD REFERENCES:  
 (R1) - "GHIANDA HEIGHTS, UNIT NO. 1" BOOK 27 OF MAPS, PAGES 25 & 26  
 (R2) - "GHIANDA HEIGHTS, UNIT NO. 2" BOOK 30 OF MAPS, PAGES 33 & 34  
 (R3) - "CALLE VISTA ESTATES, UNIT NO. 1" BOOK 126 OF MAPS, PAGES 82-85

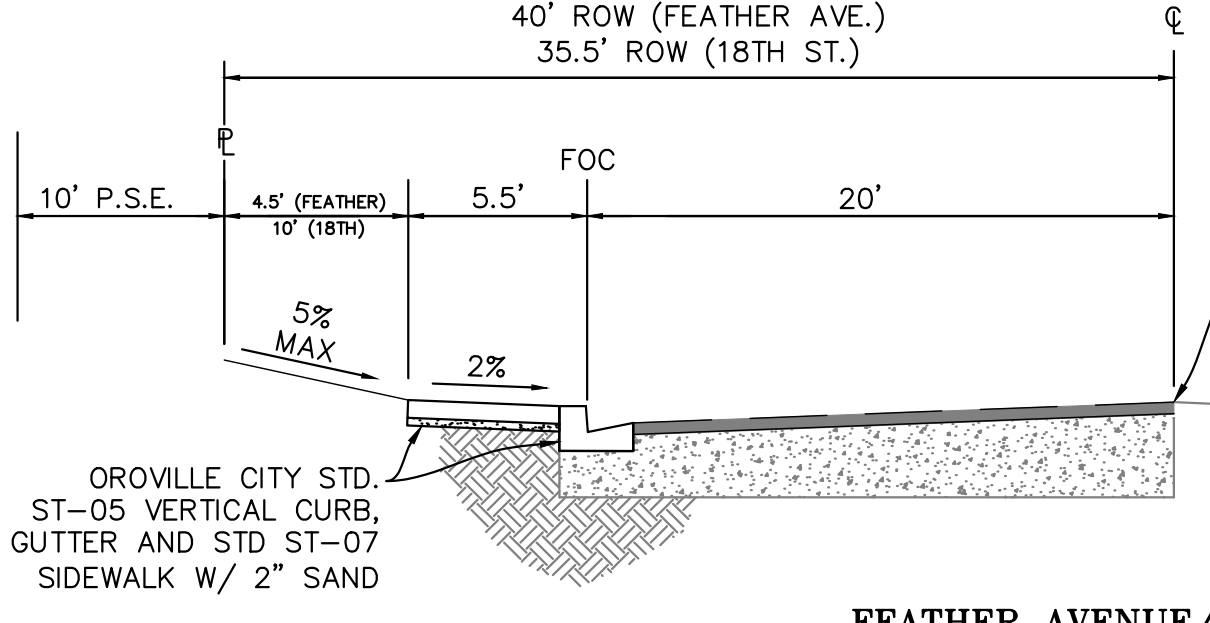
ENGINEER:  
 W. GILBERT ENGINEERING  
 WESLEY E. GILBERT, R.C.E. 31689  
 140 YELLOWSTONE DRIVE, SUITE 110  
 CHICO, CALIFORNIA 95973  
 (530) 809-1315

LAND USE:  
 PRESENT: VACANT  
 FUTURE: SINGLE FAMILY RESIDENTIAL

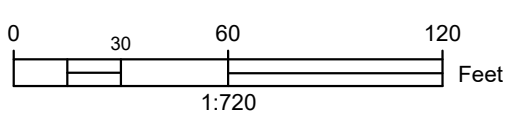
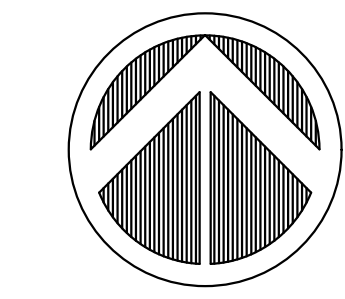
UTILITIES:  
 SANITARY SEWER: THERMALITO WATER AND SEWER DISTRICT  
 WATER: THERMALITO WATER AND SEWER DISTRICT  
 POWER: PACIFIC GAS & ELECTRIC  
 COMMUNICATIONS: AT&T  
 CABLE TV: COMCAST  
 STORM DRAIN: CITY OF OROVILLE



**INTERIOR STREET  
TYPICAL SECTION**  
PUBLIC STREET WITH ON-STREET PARKING  
N.T.S.



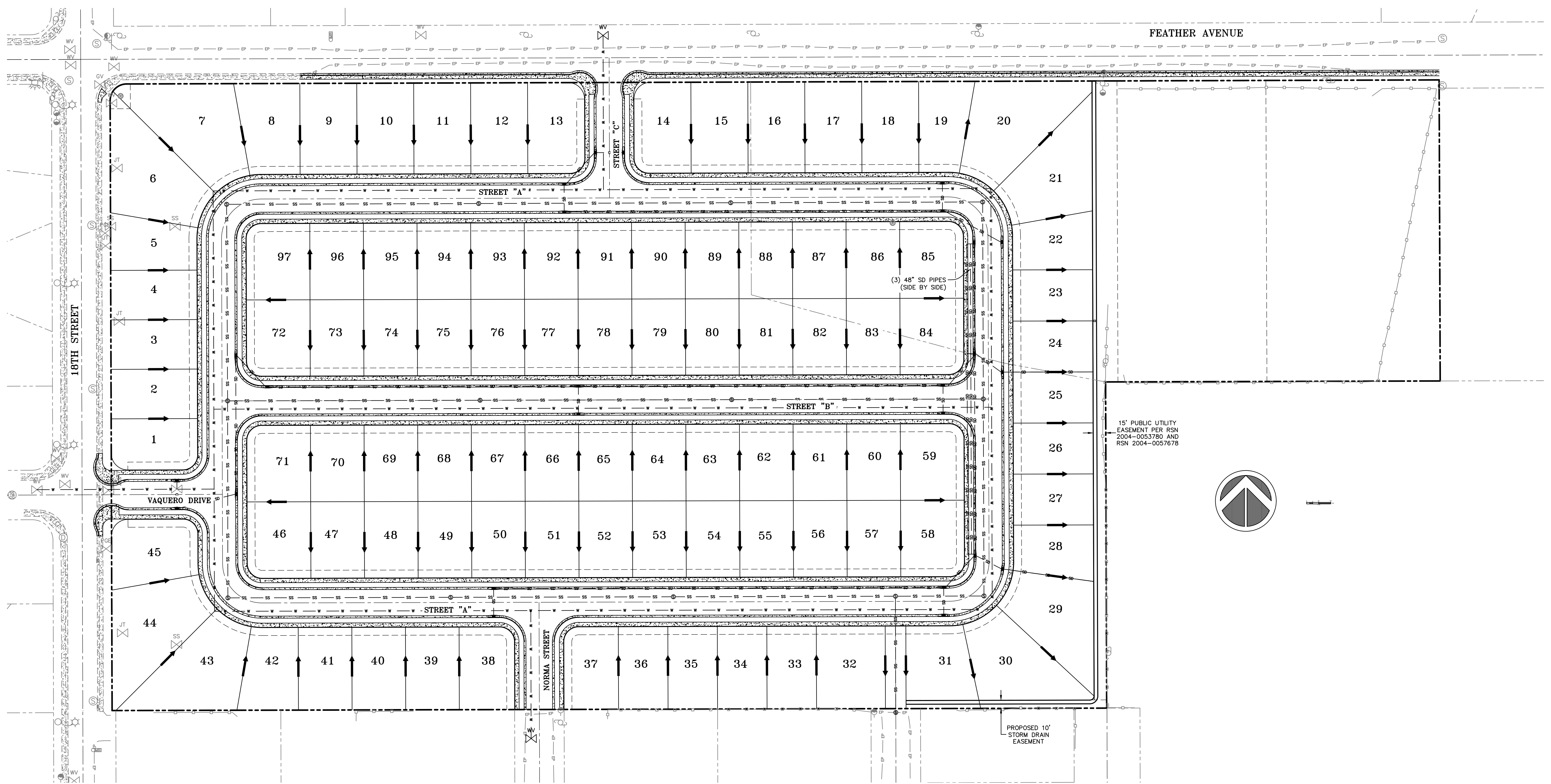
**FEATHER AVENUE/18TH STREET  
TYPICAL SECTION**  
PUBLIC STREET WITH ON-STREET PARKING  
N.T.S.



**THE VILLAGE AT RUDDY CREEK  
TENTATIVE SUBDIVISION MAP  
S ---  
(A PUBLIC STREET SUBDIVISION)**

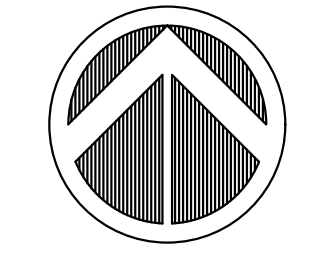
FOR  
RUDDY CREEK PARTNERSHIP  
BEING A DIVISION OF PARCELS 1 AND 2 AS  
SHOWN ON THAT CERTAIN PARCEL MAP  
RECORDED IN BOOK 82 OF MAPS, AT PAGE 13  
CITY OF CHICO, COUNTY OF BUTTE  
STATE OF CALIFORNIA

W. GILBERT ENGINEERING  
140 YELLOWSTONE DRIVE, SUITE 110  
CHICO, CALIFORNIA 95973  
(530) 809-1315



- LEGEND:**
- DRAINAGE DIRECTION
  - ▭ STORM DRAIN DROP INLET
  - STORM DRAIN PIPE
  - SS—SS— 8-INCH SANITARY SEWER PIPE
  - ⊙ SANITARY SEWER MANHOLE
  - W—W— 8-INCH WATER PIPE

**NOTE:**  
 GAS, ELECTRICAL, TELECOMMUNICATIONS AND CABLE TELEVISION TO BE SUPPLIED TO ALL LOTS.



**THE VILLAGE AT RUDDY CREEK  
 PRELIMINARY UTILITY PLAN**

FOR  
 RUDDY CREEK PARTNERSHIP  
 BEING A DIVISION OF PARCELS 1 AND 2 AS  
 SHOWN ON THAT CERTAIN PARCEL MAP  
 RECORDED IN BOOK 82 OF MAPS, AT PAGE 13  
 CITY OF CHICO, COUNTY OF BUTTE  
 STATE OF CALIFORNIA

W. GILBERT ENGINEERING  
 140 YELLOWSTONE DRIVE, SUITE 110  
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 (530) 809-1315



# CITY OF OROVILLE

## ENGINEERING

1735 MONTGOMERY STREET, OROVILLE, CA 95965-4897

(530) 538-2507 FAX (530) 538-2426

[WWW.CITYOFOROVILLE.ORG](http://WWW.CITYOFOROVILLE.ORG)

Item 4.

DATE: November 23, 2020

TO: **PLANNING COMMISSION**

FROM: Matt Thompson, Acting City Engineer, 538-2507  
Community Development Department

RE: **Engineer's Report**  
**The Village at Ruddy Creek Vesting Tentative Subdivision Map S 20-01**

This office has reviewed the Village at Ruddy Creek Vesting Tentative Map S 20-01 and herewith submits the following findings and recommendations.

### A. TIMING AND NATURE OF PUBLIC IMPROVEMENTS

The City Engineer will determine the nature, extent, timing and limits of required road/street public improvements to be constructed as part of any development (including phased development) versus payment of an in-lieu fee as well as reimbursements for construction of future Nexus/CIP facilities.

### B. PUBLIC FACILITY CONSTRUCTION

#### 1. Streets

- a) The Subdivider shall construct City standard streets and appurtenant facilities at the following locations in conformance with the typical sections. Street structural sections to be determined based upon findings from the Soils Report:
  - 1) Interior to subdivision – Full urban improvements.
  - 2) Adjacent to subdivision– Full urban improvements.
- b) All corner lots shall be subject to intersection sight distance criteria as established by the City Engineer. Appropriate easements shall be dedicated as needed on the Final Map.
- c) Street names shall be approved concurrent with the improvement plans and prior to recordation of the Final Map.

## 2. Storm Drainage

a) Facility Construction - The Subdivider shall design and install the following City standard storm drain facilities:

- 1) Interior to Subdivision - Curb, gutter, and an underground storm drain system with all appurtenances.
  - i. An emergency overflow swale shall be constructed between the interior street and Lot A in the vicinity of lots 21 through 25. The final map shall create an easement for the swale.
  - ii. Future storm drainage needs outside of the project shall be examined to the extent that improvements to serve such areas need to be built within this subdivision. Said improvements shall be constructed by the Subdivider.
- 2) Adjacent to Subdivision - Curb, gutter and an underground storm drain system with all appurtenances along the subdivision frontage.
  - i. Future storm drainage needs outside of the project shall be examined to the extent that improvements to serve such areas need to be built adjacent to this subdivision. Said improvements shall be constructed by the Subdivider.

b) NPDES Requirements

- 1) The subdivision shall comply with all of the requirements of “State Water Resources Control Board (Board) Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004, Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (General Permit).
- 2) The development shall conform with section “E.12 Post Construction Water Management Program” of the General Permit.
- 3) Prior to construction a Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented in accordance with the Board’s “National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ NPDES No. CAS000002”

c) Storm Drainage Detention Facilities

Surface storm drainage detention facilities shall be landscaped with turf (or an approved alternate) and shall be provided with an irrigation system. Any surface

water quality treatment facility shall be vegetated in accordance with a landscape plan approved by the City and shall also be suitably provided with adequate irrigation.

d) Storm Drainage Analysis

The storm drain analysis shall comply with Section B.2.b.2 of this report and shall establish tributary area, size, grade, depth, and location for all the following storm drain facilities:

- Underground pipes.
- Open, natural swales.
- Improved channels.
- Storm water runoff management facilities.
- Outfall facilities discharging to natural channels.
- Both ultimate and interim facilities serving streets exterior to the subdivision that are required to be constructed herein.

e) The Subdivider shall pay a storm drain fee calculated in accordance with the current fee schedule under the requirements of the Oroville Municipal Code, prior to filing the final map.

### 3. **Sanitary Sewer**

a) Facility Construction

The Subdivider shall design and install the following sanitary sewer facilities:

- 1) Interior to Subdivision - An underground sanitary sewer system, with all appurtenances, serving all lots.
- 2) Adjacent to Subdivision - An underground sanitary sewer system, with all appurtenances, along the subdivision frontage.

### 4. **Street Signs and Striping**

The Subdivider shall install City standard street signs, regulatory signs, pavement striping and pavement markings on all streets, and bicycle facilities that they are required herein to construct.

### 5. **Street Lights**

The Subdivider shall install City standard streetlights with shielding on steel poles with concrete bases on all streets that they are required herein to construct.

## 6. Street Trees

Street trees shall be planted in accordance with the recommendation of the Community Development Department. The number, type, and sizes shall be as directed by the Community Development Department.

## 7. Landscaping

- a) The Subdivider shall install landscaping and an irrigation system at the following locations between the back of curb and property line on the following streets:
  - 1) Feather Avenue
  - 2) 18<sup>th</sup> Street

## C. MAINTENANCE

- 1. Prior to filing the Final Map, the Subdivider shall be required to make provisions to fund the maintenance of certain public improvements. The improvements to be covered shall be:
  - a) Landscaped areas of Feather Avenue, and 18<sup>th</sup> Street,
  - b) The detention pond (or alternatively underground storage galleries) and the balance of Lot A,
  - c) The concrete drainage swale behind lots 25 through 31.
  - d) The district or alternate funding mechanism shall be complete and formed prior to recordation of the Final Map.

## D. SUBDIVISION GRADING

### 1. Soils Report

The Subdivider shall submit a Geological and/or Soils Report, prepared by a registered engineer, that includes, but is not limited to, the following:

- a) An investigation of the nature, distribution and strength of existing soils.
- b) A description of site geology.
- c) Conclusions and recommendations covering the adequacy of the site for the proposed development, storm drainage disposal, grading procedures and corrective measures.
- d) Verification that the site is suited to proposed BMPs.

### 2. Grading Standards

All subdivision grading shall be in conformance with Chapter 15.88 “Grading, Excavation, and Sediment Control” et al, of the Oroville Municipal Code.

### 3. Grading Plan



The Subdivider's engineer shall submit a subdivision grading plan that includes, but is not limited to, the following:

- a) The subdivision limits, contours and details of existing terrain and drainage.
- b) Existing structures or other topographic features that are to remain undisturbed.
- c) The proposed subdivision lots and streets, together with a schematic layout of the proposed storm drain system.
- d) Existing ground elevations at all corners of proposed lots.
- e) Proposed finished lot corner grades and finished pad grades.
- f) Proposed lot grades indicating lot drainage.
- g) Pertinent recommendations from the above required Geological and/or Soils Report.
- h) Pertinent construction details to assure compliance with City of Oroville Grading Standards.

#### **4. Final Grading Report**

Upon completion of the subdivision grading and prior to final inspection by the City, the Subdivider's engineer shall submit a Final Grading Report that certifies the following:

- a) That final grading complies with the approved grading plan or any approved revisions.
- b) That the subdivision grading complies with the recommendations included in the Geological and/or Soils Report. Any changes made during grading that affected these recommendations shall be assessed.
- c) That the subdivision soils are adequately compacted for their intended use, in conformance with City of Oroville Grading Standards. The results of all field density tests and all other substantiating data shall be included in the Final Grading Report.

The subdivision grading plan shall be submitted to the City Engineer for review and approval prior to the start of any work and shall be considered as part of the construction plans.

### **E. PROPERTY CONVEYANCES**

#### **1. Dedications**

In conjunction with recordation of the Final Map for this subdivision, the Subdivider shall:

- a) Dedicate, acquire or bear the cost of acquisition of public rights of way or easements as necessary to construct the public improvements required.
- b) Convey to the City all abutter's rights of access from the abutting lots of the subdivision to the following streets: Feather Avenue and 18<sup>th</sup> Street.
- c) Unless otherwise found to be unnecessary, dedicate an Avigation Easement to the City over the existing lots within the subdivision boundary as required by the Community Services Director.

- d) Dedicate a 10-foot-wide public service easement adjacent to public rights of way.
- e) Dedicate a 3-foot-wide public utility easement adjacent to all side lot lines.
- f) Dedicate at least 1.2-acres for parklands including any required improvements thereon or pay an equivalent in-lieu fee.

## **F. LOT RESTRICTIONS**

All lots along the southerly property line (i.e. Lots 30 through 43) shall be restricted to one-story construction.

## **G. OTHER PUBLIC SERVICES**

### **1. Public Utilities**

- a) **Underground Requirements** - The Subdivider shall install the following utilities underground:
  - 1) All new utilities serving this subdivision.
  - 2) All existing utilities in public rights-of-way that are within or adjacent to this subdivision.
- b) **Easement Obstructions** - All public utility and/or public service easements shall be kept free and clear of any and all obstructions, including but not limited to, structures, longitudinal fencing and/or sound walls, which may impede the construction, operation and maintenance of public utility facilities within such easements.

### **2. Fire Protection**

The Subdivider shall pay for the installation of fire hydrants within the subdivision in conformance with the recommendations of the Fire Department, City of Oroville

### **3. United States Postal Service**

The Subdivider shall install concrete pads for NDCBU delivery to the lots of this subdivision. The pads shall be depicted on the subdivision improvement plans and are subject to approval by both the local office of the United States Postal Service and the Planning Services Department.

## **H. PERMITS FROM OUTSIDE AGENCIES**

The Subdivider shall obtain all required permits from outside agencies having pertinent jurisdiction prior to recordation of the Final Map for this subdivision.

## **I. Other Permits**

The Subdivided shall submit a completed “Application Requesting Permission to Plant, Remove, Alter, or Disturb Public Trees” from to the Public Works Department. The Subdivider shall comply with any and all recommendations/requirements prior to commencing any construction activities on the site.

## **J. DESIGN CRITERIA AND IMPROVEMENT STANDARDS**

All public and joint-use private improvements shall be designed in accordance with the Oroville Municipal Code, except as modified by the conditions of approval for this subdivision.

The Subdivider shall submit improvement plans, profiles, typical sections, details and specifications to the Public Works Department for review and approval prior to the start of any construction of public and joint-use private improvements.

All public and joint-use private improvements shall be constructed in conformance with the Oroville Municipal Code and in conformance with the details shown on the approved improvement plans.

When standard plans and specifications for any aspect of the project are not available, the Subdivider and the City Engineer may agree on the use of another agency’s standard plans and specifications.

## **K. ENVIRONMENTAL CLEARANCE**

The City Council will be presented with a Mitigated Negative Declaration for their consideration.

## **L. ADMINISTRATIVE REQUIREMENTS**

### **1. Revised Tentative Map**

The Subdivider shall prepare a Project Map, consisting of a copy of the Tentative Map modified to depict all requirements of this subdivision report or the resolution of approval that alter the street layout, the lot configuration, or any other substantive item depicted on the Tentative Map as originally submitted.

The revised tentative map shall be submitted, reviewed, and approved by the Community Development Department Director and the City Engineer prior to initial submittal of the improvement plans or Final Map for this subdivision.

### **2. Subdivision Improvement Agreement**

Subdivider shall complete all public and joint-use private improvements prior to recordation of the Final Map. If Subdivider wishes to record prior to the completion of said improvements, Subdivider shall enter into a subdivision improvement agreement in

conformance with Chapter 16.16.210 “Completion of Improvements” of the Oroville Municipal Code.

### 3. Subdivision Fees

#### a) Plan Checking Fee

The Subdivider shall pay to the City of Oroville a subdivision plan checking fee upon filing the Final Map and/or improvement plans and specifications for checking in the following amount:

An initial deposit of 1½% of the estimated cost of all public and/or joint use private improvements exclusive of private utility facilities (\$162.95 minimum). A final fee equal to actual City costs.

#### b) Inspection Fee

The Subdivider shall pay to the City of Oroville an inspection fee prior to commencing construction in the following amount:

An initial deposit of 3% of estimated cost of all public and/or joint use private improvements exclusive of private utility facilities (\$162.95 minimum). A final fee equal to actual City costs.



Matt Thompson, P.E.  
Acting City Engineer

**CITY OF OROVILLE  
ORDINANCE NO. 1851**

**AN ORDINANCE OF THE CITY OF OROVILLE CITY COUNCIL APPROVING ZONING  
CODE AMENDMENT ZC 20-02 TO PREZONE APPROXIMATELY 23.95 ACRES OF  
UNDEVELOPED LAND LOCATED AT THE SOUTHEAST CORNER OF 18<sup>TH</sup> STREET  
AND FEATHER AVENUE FROM R-3 HIGH DENSITY RESIDENTIAL TO R-1 SINGLE  
FAMILY RESIDENTIAL**

The Council of the City of Oroville do ordain as follows:

**SECTION 1.** Pursuant to section 17.08 of the Code of the City of Oroville, the Zoning Map designation of two parcels of property totaling approximately 23.91 acres located at the southeast corner of 18<sup>th</sup> Street and Feather Avenue, more precisely described as:

Assessors Parcel Numbers 030-360-091 and 030-360-092 as they existed on the adoption date of this ordinance,

are hereby amended from High Density Residential (R-3) to Single-Family Residential (R-1).

**SECTION 2.** Pursuant to section 17.28.020 of the Code of the City of Oroville, all future development within any subdivision on these parcels district shall conform to all requirements of R-1 zoning districts and Chapter 23 of the Code of the City of Oroville, including the specific development requirements described below:

1. No more than 97 lots for development with single family dwellings shall be created in this subdivision.
2. All conditions of approval of Tentative Subdivision Map 20-01 including access to and street improvements for 18<sup>th</sup> Street, Feather Avenue, and all interior roads to the subdivision, shall be implemented.
3. Required lot development standards shall conform to the normal R-1 development standards and as follows:
  - a. All homes shall include a 2-car garage.
  - b. A minimum of 4 different floor plans shall be utilized throughout the subdivision.
  - c. All homes constructed on lots in this subdivision shall conform as practicable to the goals, site planning, building design, landscape design, accessory structure and lighting guidelines of the City’s adopted Residential Design Guidelines.
  - d. Home models shall vary within the subdivision with no two same floor plans being adjacent to each other unless the floor plan is “flipped” and the exterior façade treatment is different. The same floor plans shouldn’t be built directly across from

each other.

- e. Structures shall have the mass of the front elevation broken into a minimum of two planes (increasing setbacks from front property line).
- f. Colors:
  - a. Hue variations in adjacent homes shall be provided to create diversity. No adjacent home shall have the same color scheme.
  - b. The front elevation shall have a minimum of a four-color paint scheme.
- g. On corner lots, roof, window, and wall finish features shall be wrapped around to the street-side wall to continue the articulation of the front elevation and provide interest from the street.
- h. Fencing:
  - 1) Typical side yard fencing shall be solid and continuous wood fencing or equivalent, not greater than 6' in height. Fencing along the 18<sup>th</sup> Street frontage, Feather Avenue and the south boundary of the property shall be solid and continuous wood fencing not more than 6' in height, and subject to approval of the Planning Manager prior to installation.
  - 2) All fencing shall be installed by the contractor/developer prior to issuance of occupancy permits, weather permitting.
  - 3) In cases where weather may delay fencing and landscaping installation, occupancy may be permitted with approval of the City and the buyer. In such cases, fencing and landscaping shall be installed at the earliest possible time.

**SECTION 3. Environmental Determination.** The Council finds that the adoption and implementation of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(3).

**SECTION 4. Severability.** If any section, subsection, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

This ordinance shall become effective on the 30<sup>th</sup> day after its adoption.

The City Clerk shall attest to the adoption of this ordinance and cause same to be published in the manner required by the City Charter.

**PASSED AND APPROVED** by the Oroville City Council, at a regular meeting held on December 20, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
CHUCK REYNOLDS, Mayor

Approved As To Form:

ATTEST:

\_\_\_\_\_  
SCOTT E HUBER, City Attorney

\_\_\_\_\_  
JACKIE GLOVER, Assistant City Clerk

**MITIGATION MONITORING MATRIX FOR  
THE VILLAGE AT RUDDY CREEK TENTATIVE SUBDIVISION MAP TSM20-01**

Mitigation Measure	Timing	Agency/Department Consultation	Verification (date & initials)
<p><b><u>MM AQ 3.C – Air Quality during construction</u></b></p> <p>In order to ensure that air quality impacts remain less than significant during construction, the following mitigation measures are required when feasible as a condition of project approval to reduce these impacts to a level below significant.</p> <p><b>Diesel PM Exhaust from Construction Equipment</b></p> <ul style="list-style-type: none"> <li>• All on- and off-road diesel equipment shall not idle for more than five minutes. Signs shall be posted in the designated queuing areas and/or job sites to remind drivers and operators of the five-minute idling limit.</li> <li>• Idling, staging and queuing of diesel equipment shall as easterly on-site and not within 300-ft of sensitive receptors (residential uses) to the north, south and west or flood zone area.</li> <li>• All construction equipment shall be maintained in proper tune according to the manufacturer’s specifications. Equipment must be checked by a certified mechanic and determined to be running in proper condition before the start of work.</li> <li>• All construction equipment and diesel vehicles operated on-site shall provide evidence of having diesel particulate filters or other CARB-verified diesel emission control strategies.</li> <li>• To the extent feasible, truck trips off-site to and from the site shall be scheduled during non-peak hours to reduce peak hour emissions. Peak hours are 7 a.m. to 8 a.m. and 5 p.m. to 6 p.m.</li> </ul> <p><b>Idling Restrictions for On-Road Vehicles</b></p> <ul style="list-style-type: none"> <li>• Section 2485 of Title 13 California Code of Regulations applies to California and non-California based and diesel-fueled commercial motor vehicles operating in the State with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. In general, the regulation specifies that drivers of said vehicles:</li> </ul>	<p>During Construction</p>	<p>AQMD &amp; City Building Dept.</p>	



Mitigation Measure	Timing	Agency/Department Consultation	Verification (date & initials)
<p>a. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,</p> <p>b. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation.</p> <ul style="list-style-type: none"> <li>• Signs shall be posted at each job site entrance and at each designated queuing areas to remind drivers of the 5-minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: <a href="http://www.arb.ca.gov/msprog/truck-idling/2485.pdf">www.arb.ca.gov/msprog/truck-idling/2485.pdf</a>.</li> </ul> <p><b>Idling Restrictions for Off-Road Equipment</b></p> <ul style="list-style-type: none"> <li>• Off-road diesel equipment shall comply with the 5-minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use Off-Road Diesel regulation: <a href="http://www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf">www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf</a>.</li> <li>• Signs shall be posted at each job site entrance to remind drivers of the 5-minute idling limit.</li> </ul> <p><b>Fugitive Dust</b></p> <p>Fugitive dust complaints could result in a violation of the BCAQMD "Nuisance" and "Fugitive Dust" Rules 200 and 205, respectively. The following is a list of measures that shall be required throughout the duration of all construction activities:</p> <ul style="list-style-type: none"> <li>• The project shall reduce the amount of the disturbed where feasible in final design.</li> <li>• The project shall include use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site and at least 2 times per day. An adequate water supply source must be identified on all plans. Increased watering frequency shall be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible.</li> </ul>			

Mitigation Measure	Timing	Agency/Department Consultation	Verification (date & initials)
<ul style="list-style-type: none"> <li>• All dirt stockpile areas actively used shall be sprayed daily, as needed, and all non-active stockpile areas shall be covered, or a District approved alternative method will approved by the BCAQMD and City for use.</li> <li>• Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of any soil disturbing activities.</li> <li>• Exposed ground areas that will be reworked at dates greater than one month after initial grading shall be be sown with a fast-germinating non-invasive grass seed and watered until vegetation is established to control dust.</li> <li>• All disturbed soil areas not subject to re-vegetation shall be stabilized using approved chemical soil binders and jute netting. Other methods may be approved in advance by the the BCAQMD and the City.</li> <li>• All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible. In addition, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>• Vehicle speed for all construction vehicles shall not exceed 10 mph on any unpaved surface at the construction site.</li> <li>• All trucks hauling dirt, sand, soil, or other loose materials are to be covered or shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with local regulations.</li> <li>• Install and maintain a washer area for vehicle tires where vehicles enter and exit unpaved roads onto streets or wash off trucks and equipment leaving the site.</li> <li>• Project shall sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads, and more frequently if needed. Water sweepers with reclaimed water shall be used where feasible.</li> <li>• Post a sign in a prominent location visible to the public at each construction site entrance with the telephone numbers of the contractor (designated person) and District for any questions or concerns about dust from the project. Corrective action shall be taken within 24 hours by the contractor.</li> </ul>			

Mitigation Measure	Timing	Agency/Department Consultation	Verification (date & initials)
<p>The contractor shall maintain a record of all complaints and corrective measures taken for each phase of the project until work has been accepted by City and/or other responsible utility.</p> <ul style="list-style-type: none"> <li>• All fugitive dust mitigation measures required above shall be shown on grading, improvement and building plans. In addition, the contractor or builder shall designate a person or persons to implement and monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. The duties of the designated person shall include holidays and weekend periods or other times when work may not be in progress. The name and telephone number of the designated persons shall be provided to the City Building Official and the BCAQMD prior to land clearance and for any and all related work for final map recordation and finished grading of the area.</li> <li>• Violations of BCAQMD Regulations are enforceable under the provisions of California Health and Safety Code Section 42400, which provides for civil or criminal penalties of up to \$25,000 per violation.</li> </ul> <p><b>GHG Construction Equipment Emission Reductions</b></p> <ul style="list-style-type: none"> <li>• Maintain all construction equipment in proper tune according to manufacturer's specifications;</li> <li>• Fuel all off-road and portable diesel-powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);</li> <li>• Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation;</li> <li>• Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;</li> <li>• Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;</li> </ul>			

Mitigation Measure	Timing	Agency/Department Consultation	Verification (date & initials)
<ul style="list-style-type: none"> <li>• All on- and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and/or job sites to remind drivers and operators of the 5 minute idling limit;</li> <li>• Diesel idling within 1,000 feet of sensitive receptors is prohibited;</li> <li>• Staging and queuing areas shall not be located within 300 feet of western and southern property lines;</li> <li>• Electrify equipment when feasible;</li> <li>• Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and</li> <li>• Use alternatively fueled construction equipment on site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.</li> </ul>			
<p><b>MM 4.1 - Biological—Raptor survey</b></p> <p>A pre-construction raptor survey must be conducted, preferably in April or May, prior to construction activities, in order to determine whether nesting raptors are present within the proposed project area. If construction occurs between 1 March and 15 September, a qualified biologist will survey the project site and all areas within 250 ft of the project site for nesting raptors and migratory birds. The survey shall be conducted no more than 30 days prior to the initiation of construction. If grading and tree removal is proposed between 16 September and 28 February, no survey is required. If an active nest is located within 250 ft of the project site, a biologist will monitor the nest weekly during construction to evaluate potential nesting disturbance caused by construction activities. The biological monitor will have the authority to stop construction if construction appears to be resulting in nest abandonment or forced fledging.</p>	Prior to construction	City Building and Planning Departments	
<p><b>MM 4.1A – Biological Resources – special status species survey</b></p> <p>Prior to any activity on-site intended to facilitate the development of the approved project, the applicant shall contract with the appropriate qualified biologist each of the following measures below to protect these special status species and their habitats. It is acknowledged that these measures may be amended or superseded by the project-specific permits issued by the regulatory agencies. Any amendments to these</p>	Prior to construction	City Building and Planning Departments	

Mitigation Measure	Timing	Agency/Department Consultation	Verification (date & initials)
<p>measures shall be made known immediately to the Community Development Director by the developer/applicant after the issuance of said permit(s).</p> <p>The developer/applicant shall contact the Community Development Director to inform him/her of the start and end of each survey below. A written summary of the each survey method and result shall be delivered to the Director within three (3) calendar days of completion of each survey. Any actions taken to preserve any species listed herein shall be cause for the developer/applicant to immediately contact the Community Development Director with actions being taken to preserve special status species and with a written summary of the resulting outcomes within three (3) calendar days of these actions when ended.</p>			
<p><b>MM 4-E -- Oak Tree Mitigation</b></p> <p><u>Per the City's Oak Tree Mitigation Ordinance, the removal of any oak trees six inches or larger in diameter breast height shall be replaced by two inches of plantings on site or nearby, subject to the approval of the Community Development Director.</u></p> <p><u>Alternatively, the City Council may approve a more feasible mitigation plan. The City deems an oak woodland significant if it has a canopy cover greater than 20%, or any portion of a site greater than one acre with 20% oak canopy cover that is a contiguous part of a larger woodland area. This stand of oaks is isolated and barely a 10% canopy cover, thus it does not rise to the level of significance. The Council at its discretion may approve planting 270 inches of replacement oaks, or approve no oak tree mitigation.</u></p>	<p>During construction</p>	<p>City Building and Planning Departments</p>	
<p><b>MM 9.b – Construction Staging areas</b></p> <p>Prior to approval of a grading and construction permit, the permit applicant shall designate staging areas where fueling and oil-changing activities are permitted. No fueling and/or oil-changing activities shall be allowed outside of the designated staging areas. As much as practicable, the staging areas shall be located on level terrain. Staging areas shall not be located within 50- feet of a 100-year flood area as designated on the FEMA Flood Insurance Rate Maps or within 100-feet of any existing or to be constructed residence while the staging area is in use.</p>	<p>Start of construction</p>	<p>City Building Department</p>	

<b>Mitigation Measure</b>	<b>Timing</b>	<b>Agency/Department Consultation</b>	<b>Verification (date &amp; initials)</b>
<b>MM 13.1 -- Public Facilities – CFD annexations</b> Prior to recordation of the Final Map, the subdivision shall annex in to both CFD 2006-01 and CFD 2006-02.			



California Wildlife Foundation/California Oaks, 201 University Avenue, H-43 Berkeley, CA 94710, (510) 763-0282

October 18, 2023

Mark Wolfe  
 City of Oroville  
 Community Development Department  
 1735 Montgomery Street  
 Oroville, CA 95965

Submitted via email: [mwolfe@cityoforoville.org](mailto:mwolfe@cityoforoville.org)

RE: The Village at Ruddy Creek Subdivision, State Clearinghouse Number 2020080198, File number TSM 07-04, Assessor Parcel Numbers 030-360-091 and 030-360-092

Dear Mr. Wolfe:

The California Oaks program of California Wildlife Foundation (CWF/CO) works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. A concerned citizen reached out in 2021 requesting that California Wildlife Foundation/California Oaks send a letter about the inadequate environmental analysis conducted for the Ruddy Creek Subdivision project. The 2021 letter by California Wildlife Foundation/California Oaks to the Butte Local Agency Formation Commission is attached for your reference.

As an interested party that commented on this project, CWF/CO should have received notice from the City of Oroville about the October 26<sup>th</sup> hearing. No notice was provided by the City of Oroville, instead the concerned citizen alerted us of the upcoming hearing.

The Planning Department website on the project indicates that the new proposal is for 97 homes rather than 172. California Wildlife Foundation/California Oaks is interested to know the new project's oak and other ecosystem impacts and proposed mitigation measures.

As noted in the attached letter, which was sent on September 1, 2021, the phrasing of Mitigation Measure 4-E appears to indicate that the removal of trees six-inches or greater requires two-inches of replacement planting rather than two-inches for each inch that is removed. The second attachment is the City of Oroville's oak tree loss mitigation standards (17.12).

Further, the site should be reassessed as conditions have changed since assessments were made in 2020 and because, as articulated in CWF/CO's September 2021 letter, discrepancies between the 2015 Supplemental Environmental Impact Report and the April 2020 Biological Resource Assessment are an argument for conducting a full environmental impact report for the proposed project. Additionally, the project's proximity to many state and federally listed and other special status species, many of which are oak-dependent or oak-associated (see this [link](#) for further information), is a further reason for a greater level of assessment.

California Wildlife Foundation/California Oaks also recommends that the City of Oroville amend the tree loss mitigation standards to protect beyond the dripline to include the root protection zone. This area, which is half again as large as the area from the trunk to the dripline of an oak, is critical to oak tree health. Soil and other materials placed on top of the natural soil

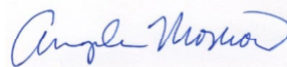
level, called fill, are usually compacted. They make the soil less permeable, thereby restricting or prohibiting the exchange of gases and movement of water. Excessive moisture trapped by fill can also cause root and crown rot. Because there is no guarantee that fill can be safely added around an oak tree, it is best to avoid tampering with the natural grade, or to leave the natural grade within the root zone alone and use retaining walls. Further, poor drainage is a common cause of oak tree deaths, since adequate drainage is critical to ensure a proper balance of moisture, air, and nutrients to grow and survive. Too much moisture, particularly in the warm months when natural conditions are dry, can smother the roots and encourage the proliferation of crown and root rot fungi. Lastly, trenching is another cause of tree death. Trenching usually occurs when underground utilities are installed. Digging a trench for utilities within the root protection zone of an oak can sever a significant portion of a tree's roots. Often, several trenches are opened by separate utilities. This multi-trenching is particularly destructive since it impacts a greater portion of the root system. If utilities must impinge on the root protection zone of a native oak, the trench should be dug by hand, avoiding roots, or utilities bored through the ground at least three feet below the surface. [Care of California's Native Oaks](#) provides additional information.

Thank you for your consideration of our comments.

Sincerely,



Janet Cobb  
Executive Officer, California Wildlife Foundation  
[jcobb@californiawildlifefoundation.org](mailto:jcobb@californiawildlifefoundation.org)



Angela Moskow  
California Oaks Program Director  
[amoskow@californiaoaks.org](mailto:amoskow@californiaoaks.org)

**Encls.** September 1, 2021, letter sent by California Wildlife Foundation/California Oaks to the Butte Local Agency Formation Commission

City of Oroville's oak tree loss mitigation standards (17.12)





California Wildlife Foundation/California Oaks, 201 University Avenue, H-43 Berkeley, CA 94710, (510) 763-0282

September 1, 2021

Butte Local Agency Formation Commission  
1453 Downer Street, Suite C  
Oroville, CA 95965

Submitted via email: Commission Clerk, [jstover@buttecounty.net](mailto:jstover@buttecounty.net)

RE: The Village at Ruddy Creek Subdivision, State Clearinghouse Number 2020080198

To the members of the Butte Local Agency Formation Commission:

The California Oaks program of California Wildlife Foundation (CWF/CO) works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. A concerned citizen reached out to CWF/CO requesting that we send a letter about the inadequate environmental analysis conducted for the project.

It is understood that environmental analysis was conducted for a development project that did not advance and the City of Oroville is mindful of the need for housing and also of the expenses incurred by the developer. However, regulations are in place to mitigate environmental impacts. Inconsistencies between the prior environmental analysis and the Mitigated Negative Declaration are troubling as are potential project impacts on oaks and sensitive species.

Project impacts on California black rail (*Laterallus jamaicensis coturniculus*) were found to be significant in the 2015 Supplemental Environmental Impact Report (SEIR), as reported on page 29 of the Initial Study and Mitigated Negative Declaration (see below), whereas the April 2020 Biological Resource Assessment reports on page 13 that there is no suitable habitat for the California black rail. This inconsistency alone should require a full environmental impact report.

The 2015 SEIR included a discussion of California black rail, which had been added as a new threatened wildlife species and was not previously addressed in the 2009 EIR. The 2015 SEIR and 2009 EIR concluded that land use change impacts on special-status plant or wildlife species would remain less than significant based upon the 2030 General Plan policies (Pages 4.3-23 and 4.3-28 to 4.3-29 of the Draft EIR) and project-level mitigation resulting from CEQA review. The 2015 SEIR also noted the preservation of oak trees resulting from the Oak Tree Loss Mitigation Ordinance could benefit special-status species that depend on oak tree habitat. The 2015 SEIR also acknowledged that construction activities (grading and excavation) associated with new development could result in the direct removal of California black rail habitat and/or in mortality and/or injury of California black rail adults, juveniles, nestlings, and eggs, and other construction activities (e.g. noise and lighting) could also result in direct impacts on California black rail by disrupting normal behaviors, including nesting, and could indirectly impact California black rail habitat by altering the hydrology that supports adjacent freshwater marsh habitat (e.g. removing contour ditches, disrupting subsurface hydrology, or redirecting flows). Once constructed, newly developed areas could also indirectly impact California black rail where these areas occur adjacent to occupied or potential habitat through the introduction of pets, noise, and lighting. The impacts on California black rail were found to be significant and were overridden in the Statements of Overriding Consideration certified by the City Council for the 2015 SEIR.

It is also noteworthy that the statement above, as well as the statement below, from page 35 and 36 of the Initial Study and Mitigated Negative Declaration, speak about the importance of oaks in achieving an impact that is *less than significant*:

The previous environmental documents acknowledged that the 2030 General Plan includes numerous policies to protect biological resources that are regulated under those federal, State, and local policies and regulations, and the proposed Oak Tree Loss Mitigation Ordinance would have a beneficial effect on oak trees by requiring replacement plantings for removed oak trees. Because new development would need to comply and not conflict with the City’s local policies protecting biological resources, development expected from the 2030 General Plan would (have) no impact.

Page 36 of the Initial Study and Mitigated Negative Declaration describes the oak mitigation plan:

**PROJECT IMPACTS: LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

The City of Oroville General Plan contains policies for preserving oak woodland habitat and pursuant to the Oroville Municipal Code, heritage trees/protected trees are defined as a tree with a 42 inch or greater diameter and their removal is regulated. A tree survey was performed and it was determined that this property does meet the definition of an oak woodland habitat in that the oak tree canopy is just over 10%. There are old entitlements to develop the property with an 82 space mobile home park, and the previous Ruddy Creek subdivision, but both have expired.

Since the last site activity, volunteer oaks and other species have populated the site. The July 2020 tree report by Gallaway Enterprises identified 58 oak trees with a diameter equal or greater than 6” dbh with a health of 3 or better. Total tree diameter is 672”. Oroville’s Oak Tree Loss Mitigation Ordinance (OMC 17.12.065) requires 2” to be replanted for every inch removed. Thus, a total of 1,344” will need to be planted on-site or nearby. This requirement will be a condition of the final map.

There are two Heritage oaks larger than 24 inches on site, but their health has deteriorated significantly. Staff recommend they be removed, and have concluded they do not need replacing.

**MM 4-E**

The removal of any oak trees six inches or larger in diameter breast height shall be replaced by two inches of plantings on site or nearby, subject to the approval of the Community Development Director.

Based on the language under MM 4-E it appears that the requirement that every inch of oak tree removed is not subject to the two-inch replacement requirement, but instead that the requirement is for two-inches of oak tree plantings. Further, it does not appear that the mitigation includes any oak tree retention. The habitat values of oak seedlings and saplings are inferior to those of mature oak trees. For example, the Endangered Species Recovery Program describes nesting habitat loss for the oak-dependent Swainson’s hawk: “The populations of Swainson's hawks have declined by 90% since the 1940s due to the loss of

nesting habitat.”<sup>1,2</sup> Schlorff and Bloom report that Swainson’s hawk is closely associated with riparian habitat in the Central Valley, where these hawks use large valley oaks as nesting sites.<sup>3</sup>

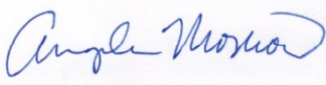
Mature oaks in deteriorating health continue to provide habitat values. The plan to remove the two heritage oaks with no mitigation, combined with no oak retention requirement, and a diminished oak replacement requirement is a formula for significant environmental impacts.

This project should not be advanced without the preparation of an environmental impact report.

Sincerely,



Janet Cobb  
Executive Officer  
California Wildlife Foundation  
[jcobb@californiawildlifefoundation.org](mailto:jcobb@californiawildlifefoundation.org)



Angela Moskow  
Manager  
California Oaks Coalition  
[amoskow@californiaoaks.org](mailto:amoskow@californiaoaks.org)

cc: Shannon Costa, [scosta@buttecounty.net](mailto:scosta@buttecounty.net)

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<sup>1</sup> <https://esrp.csustan.edu/speciesprofiles/profile.php?sp=busw>

<sup>2</sup> Also see L Verner, Jared; Boss, Allan S., tech. coords. 1980. California wildlife and their habitats: western Sierra Nevada. Gen. Tech. Rep. PSW-37. Berkeley, CA: U.S. Department of Agriculture, Forest Service, Pacific Southwest Forest and Range Experiment Station. 439 p. [10237]

<sup>3</sup> Schlorff, Ronald W.; Bloom, Peter H. 1984. Importance of riparian systems to nesting Swainson's hawks in the Central Valley of California. In: Warner, Richard E.; Hendrix, Kathleen M., eds. *California riparian systems: Ecology, conservation, and productive management: Proceedings of a conference*; 1981 September 17-19; Davis, CA. Berkeley, CA: University of California Press: 612-618. [5863]

## Oroville, California Municipal Code

## Title 17 ZONING

## Chapter 17.12 DEVELOPMENT STANDARDS

**17.12.065 Oak tree loss mitigation.**

A. **Purpose.** Oroville's native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville's valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. **Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

"Native oak tree" means an oak tree that is native to Butte County's natural oak communities, including valley oak, black oak, blue oak, interior live oak, and canyon oak.

C. **Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit to remove any oak tree that meets the applicability criteria in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
  - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
  - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
  - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
  - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.
  - b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
  - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
  - b. The off-site location is appropriate for oak tree plantings, as determined by the director of parks and trees or designee.
  - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

- E. **Exceptions to Mitigation Requirements.** Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.
- F. **Replacement Standards.** Replacement trees must meet the following standards.
1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 2 inches of native oaks, using trees planted at a minimum size of one gallon. For example, a 6-inch dbh tree may be replaced by four 3-inch trees or 12 one-inch trees.
  2. **Timeframe.** A replacement tree shall be planted within 90 days of the removal of the original tree.
  3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section [17.12.050](#) (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
  4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
  5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.
- G. **Oak Tree Maintenance Fund.** The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:
1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
  2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.
- H. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:
1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
  2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.
- I. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017)

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## Contact:

City Clerk: 530-538-2535

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**RESOLUTION NO. P 2023-24  
A RESOLUTION OF THE OROVILLE PLANNING COMMISSION  
EXTENDING APPROVAL OF TENTATIVE SUBDIVISION MAP NO. 20-01  
TO CREATE 97 BUILDING LOTS FROM APPROXIMATELY 23.97 ACRES OF  
LAND AT THE SOUTHEAST CORNER OF FEATHER AVENUE AND 18<sup>TH</sup>  
STREET ADJACENT TO THE CITY LIMITS OF OROVILLE  
(THE VILLAGE AT RUDDY CREEK SUBDIVISION)**

WHEREAS, on December 15, 2020, the City Council of the City of Oroville adopted a Mitigated Negative Declaration and approved at Tentative Map for Ruddy Creek, a 97 lot subdivision of a 23.97 acres; and

WHEREAS, a request from the project applicant to extend the original 3-year approval period has been received; and

WHEREAS, Oroville’s Municipal Code provides for approval of such extensions for up to two years; and

WHEREAS, conditions on and surrounding the project site have not changed in any significant way;

WHEREAS, the previously adopted Mitigated Negative Declaration for the project remains valid, and adequately addresses potential impacts of the project.

NOW, THEREFORE, BE IT RESOLVED THAT

1. TSM 20-01, is extended for a period of two years, until December 16, 2025.
2. All previously approved conditions of the Tentative Map’s approval, including all adopted Mitigation Measures, shall continue to apply to the project.

**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 26th of October 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

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PATRICK PIATT

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CARL DURLING, CHAIRMAN

COMMUNITY DEVELOPMENT DIRECTOR



# City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

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 Oroville, CA 95965-4897  
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## PLANNING COMMISSION STAFF REPORT

Thursday, October 26, 2023

**RE: Proposed Planning Commission Policy to Delegate review of Minor Land Divisions to the Zoning Administrator**

**SUMMARY:** The Oroville Planning Commission will consider delegating review of parcel map waivers to the Zoning Administrator, consistent with reviews for lot line adjustments and parcel mergers

**RECOMMENDATION: Staff recommends the following actions:**

1. **Approve** the staff recommendation to delegate review of parcel map waivers to the Zoning Administrator.
2. **Adopt Resolution No. P2023-25 -- A RESOLUTION OF THE OROVILLE PLANNING COMMISSION CONDITIONALLY DELEGATING REVIEWS OF PARCEL MAP WAIVERS TO THE ZONING ADMINISTRATOR**

**APPLICANT:** City initiated

**LOCATION:** City wide

**GENERAL PLAN:** all

**ZONING:** all

**FLOOD ZONE:** n/a

**ENVIRONMENTAL DETERMINATION:** Not a Project under CEQA Guidelines Section 15378(b)(5).

**REPORT PREPARED BY:**

**REVIEWED BY:**

\_\_\_\_\_  
 Wes Ervin, City Planner  
 Community Development Department

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 Patrick Piatt, Director  
 Community Development Department

## DISCUSSION

Of the three types of actions to change the size and/or shape of a legal parcel, the following is in the Oroville Municipal Code. In Oroville, Lot line Adjustments are reviewed



by the Zoning Administrator (OMC 16.32.030), as are lot mergers (OMC 16.36.070). Parcel maps involving simple lot splits of up to 4 parcels require Planning Commission approval.

However, there is also a provision in OMC 16.12.040 allowing lots to be split by deed rather than creating a tentative then final parcel map. This process is termed a Waiver of Parcel Map. Some other jurisdictions have an administrative process termed Minor Land Divisions which include map waivers. The surveying, map creation and review and subsequent recording is still required.

### Recommendation

Staff recommends that similar to the Lot line adjustment and mergers, the Planning Commission also delegate review of parcel map waivers to the Zoning Administrator -- as long as all waiver conditions are met (e.g. no zoning changes, all street improvements are installed or handled via a recorded deferred improvement agreement, and water and sewer are available). If any proposed lot split appears to be controversial or raises policy or other issues, staff will bring the project to the Commission for review.

### Background

Normally when land is subdivided, both a tentative and final map are required by the State Subdivision Map Act (Government Code Section 66410 et seq); however, when fewer than five (5) parcels will be created, a parcel map is allowed under State Law (Government Code Section 66426). In Oroville, the parcel map process requires that a tentative and final map be approved. However, under those specific circumstances described below, a final map is waived. The parcel map waiver process is authorized by State Law (Government Code Section 66428).

According to OMC 16.12.040(B) the criteria for using the parcel map waiver is fairly narrow. It can only be used in very specific circumstances, as follows:

#### "When a Parcel Map May Be Waived.

1. The planning commission may waive the requirement for a parcel map in any case where the proposed subdivision is a division into 4 or fewer parcels, and:
  - a. Where the land being divided consists of a parcel shown on a recorded parcel map or final subdivision map or a legally created parcel and the full street improvements have been constructed and monumentation is evident; or
  - b. Where each has a gross area of 40 acres or more or each of which is a quarter-quarter section or larger; or
  - c. Upon making a finding that the proposed division of land complies with the requirements of the city code and Subdivision Map Act as to area, improvement and design, floodwater drainage control, appropriately improved public roads, sanitary disposal facilities, water supply availability, environmental protection and any other requirements that may apply.

2. A waiver may be granted only if:
  - a. The subdivider files an application with the zoning administrator stating the **existence of monuments and improvements** prior to consideration of the waiver by the planning commission;
  - b. The submitted material conforms to the requirements of the zoning administrator as to form and content;
  - c. The application contains a **legal description for each parcel**;
  - d. The **land is monumented on the ground, and a record of survey is recorded**;
  - e. The planning commission finds that the proposed division of land complies with the requirements of the California Environmental Quality Act, the zoning code of the city, city ordinances, improvement standards as set forth by resolution of the city, the general plan and applicable specific plans of the city.

The parcel map waiver process does not involve the recording of a final map; instead, the lots are created by deed. A **Certificate of Compliance** is recorded that recognizes said deeds as describing lawfully created parcels resulting from the parcel map waiver process.

### **Attachments**

Resolution P2023-25

Oroville Municipal Code 16.12.040 Parcel Maps

## RESOLUTION NO. P2023-25

### A RESOLUTION OF THE OROVILLE PLANNING COMMISSION CONDITIONALLY DELEGATING REVIEWS OF PARCEL MAP WAIVERS TO THE ZONING ADMINISTRATOR

**WHEREAS**, most minor land divisions including lot line adjustments and lot mergers are reviewed and approved by the Zoning Administrator but per OMC 16.12.040 parcel splits of up to 4 parcels that meet the requirements for Parcel Map Waivers are reviewed by the Planning Commission; and

**WHEREAS**, in many jurisdictions parcel map waivers are considered Minor land divisions and are also reviewed by that jurisdiction's Zoning Administrator; and

**WHEREAS**, minor land divisions are categorically exempt from CEQA per Title 14 CCR, Section 15315 ; and

**WHEREAS**, a more efficient review process that is less costly for applicants would result if Parcel Map waivers are also reviewed by Oroville's Zoning Administrator.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION** as follows:

1. This action has been determined to be exempt from California Environmental Quality Act (CEQA) review because it is not a project under CEQA Guidelines Section 15378(b)(5).
2. The Planning Commission hereby delegates review of parcel map waivers to the Zoning Administrator, except in cases where there may be controversy, neighborhood impacts, or other concerns, in which case the review will be conducted by the Planning Commission.

**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a special meeting of the Planning Commission of the City of Oroville held on the 26<sup>th</sup> of October 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

\_\_\_\_\_  
KAYLA REASTER, ASSISTANT CITY CLERK

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CARL DURLING, CHAIRPERSON

### 16.12.040 Parcel maps.

A. When a Parcel Map Is Required. Parcel maps shall be required for any subdivision of land that does not require a subdivision map, except the following:

1. Subdivisions created by short-term leases (terminable by either party on not more than 30 days' notice in writing) or a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the [Public Utilities Code](#), or for land conveyed to public agency or public utility, or to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a finding is made in individual cases, based upon substantial evidence, that public policy necessitates such a parcel map.
2. A lot line adjustment, as provided in Chapter 16.32.

B. **When a Parcel Map May Be Waived.**

1. The planning commission may waive the requirement for a parcel map in any case where the proposed subdivision is a division into 4 or fewer parcels, and:
  - a. Where the land being divided consists of a parcel shown on a recorded parcel map or final subdivision map or a legally created parcel and **the full street improvements** have been constructed and monumentation is evident; or
  - b. Where each has a gross area of 40 acres or more or each of which is a quarter-quarter section or larger; or
  - c. Upon making a finding that the proposed division of land complies with the requirements of the city code and Subdivision Map Act as to area, **improvement and design, floodwater drainage control, appropriately improved public roads, sanitary disposal facilities, water supply availability, environmental protection and any other requirements that may apply.**
2. A waiver may be granted only if:
  - a. The subdivider files an application with the zoning administrator stating the **existence of monuments and improvements** prior to consideration of the waiver by the planning commission;
  - b. The submitted material conforms to the requirements of the zoning administrator as to form and content;
  - c. The application contains a **legal description for each parcel**;
  - d. The **land is monumented on the ground, and a record of survey is recorded**;
  - e. The planning commission finds that the proposed division of land complies with the requirements of the California Environmental Quality Act, the zoning code of the city, city ordinances, improvement standards as set forth by resolution of the city, the general plan and applicable specific plans of the city.

C. Parcel Map Improvements.

1. For a division of land for which a parcel map is required, improvements shall include the dedication of rights-of-way and easements and the construction of reasonable on-site and off-site improvements for the parcels being created. No other improvements shall be required.
2. An improvement plan shall be submitted and approved pursuant to the requirements of Section 16.16.190.

3. Fulfillment of the construction requirements shall not be required until the time a permit or other grant of approval for development of the parcel is issued by the city, or until the time the construction of the improvements is required pursuant to an agreement between the subdivider and the city. In the absence of an agreement, the city may require fulfillment of the construction requirements within a reasonable time following approval of the parcel map and prior to the issuance of a permit or other grant of approval for the development of a parcel, upon a finding of the planning commission that fulfillment of the construction requirements is necessary for either of the following reasons:

- a. Fulfillment is necessary to protect public health and safety.
- b. The required construction is a necessary prerequisite for the orderly development of the surrounding area. (Ord. 1749 § 3)